

# NATIONAL MUNICIPAL REVIEW

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## EDITORIAL COMMENT

What Price  
Reform?

Frederic C. Howe, unburdening his soul in his *Confessions of a Reformer*,<sup>1</sup> would have us believe that his life has been a series of devotions to lost causes, causes which he championed gladly but which inevitably brought disillusionment and a sense of failure. Today there remains only the School of Opinion, the old farm on

Nantucket Island and the single tax.

As a graduate student at Johns Hopkins he learned from Woodrow Wilson of the exquisite workings of the English constitution and of the surpassing statesmanship of the constitutional fathers. Abandoning journalism, because his training seemed to be of no avail in it and his inherited "small town" morality compelled him to distrust anything which he enjoyed so much, he entered the law and finally moved to Cleveland. Here he joined up with Tom Johnson and was shocked to find that his Hopkins' doctrines did not mesh with the facts of real politics.

Johnson's Municipal Traction Company failed and Howe moved to New York, wrote the series of stimulating books on city government and in 1914 became commissioner of immigration at Ellis Island. This post involved him in fruitless struggles with en-

trenched bureaucracy, doubtless similar to those which recently accomplished the resignation of Henry H. Curran, and moved him to take a bitter crack at civil service reform. Yet somehow he was enabled to transfer his enthusiastic vision to the Peace Conference at Paris only to learn that the peacemakers did not desire peace.

And so the reformer learned that men are not concerned over truth when their economic interests are at stake, and that no one is ever converted by intellectual appeal. At fifty odd, he tells us, with a conscience that still troubles him (he could never shake off his Wesleyan conscience) he spends his summers on the island and his winters in Europe. The pre-war radicals, Johnson, Folk, Whitlock, Steffens, Baker, Older, failed or burned out; the abuses they aimed at are not ended. Is reform a failure?

Perhaps the lesson is not to take reform too seriously. Contemporary programs for city betterment lack the moralistic fervor of the "Cleveland School" which Tom Johnson built up around him, but that may be because so much that they struggled for now finds general acceptance; and it may be possible that our present mood better enables us to consolidate the real gains of those who felt the shame of our cities so keenly. Their experience

<sup>1</sup> New York: Charles Scribner's Sons. 1925.  
\$3.00.

has taught us not to expect too much and surely our cities are less shameful today because of what they did.

"Confessions of a Reformer" will hold your interest from cover to cover whether you are a reformer or not and you will feel sorry for the author even if you don't sympathize with him.

Two New  
Departments

With this issue the REVIEW inaugurates one new department, Public Utilities, and resumes another, Judicial Decisions. Professor C. W. Tooke of Georgetown University will carry on the duty of reporting on current court decisions relating to state and municipal government, which for a number of years was conducted by Robert C. Goodrich of the Duluth Taxpayers League. The plan for each month is to run an extended analytical note on some legal phase of local government to be followed by briefer digests of current opinions. Professor Tooke was formerly in charge of the department of public law administration at the University of Illinois and legal editor of Municipal Affairs.

The scope and nature of Dr. Bauer's department on Public Utilities is well described in the introduction to his notes for this month. The REVIEW has long felt that there is need for more discussion of the public's side of utility operation, especially for current comment on every day happenings as they relate to the public's interest in its utilities. The private interests are well defended in a number of periodicals and it is no reflection upon them to say that this fact makes it of urgent importance that the public's case receive thorough publicity.

This does not mean that either Dr. Bauer or the REVIEW has a bias towards public ownership. So far as the editor is capable of self-analysis, he believes in his case that the opposite is

the truth. In any given situation the burden of proof is undoubtedly upon those urging public ownership but he agrees with Dr. Bauer that public regulation has fallen short of the measure of success needful and that the public must be on the alert. Both the public and the utilities must approach the problem coolly and honestly if we are not to become embroiled in unreasoning turmoil against which Professor Riggs warns us in this issue. To aid us in escaping such turmoil is the purpose of the new department.

The First Woman Mayor      Mrs. Bertha R. Landes, running on a platform which favored the city manager form of government, was elected mayor of Seattle on March 9, although the city manager charter amendment was defeated by 104 votes in a total of more than 73,000. In 1922 Mrs. Landes was elected a member of the city council and re-elected two years later by the largest vote ever given a candidate for that office. For two years she has been president of the council, by virtue of which she became acting mayor in the absence of the mayor. Those who in 1924 were following the dreary proceedings of the Democratic National Convention in New York will remember how the monotony was pierced one hot day by the news that Mayor Brown of Seattle had been hastily called home because the acting mayor had dismissed his chief of police and had taken over the office herself in a campaign to clean up the town. Forgetting the troubles of the national party, which were serious enough, heaven knows, Mayor Brown hurried home to reinstate his appointees. Since that time, Mrs. Landes has consistently opposed Brown's policy of lax law enforcement and now enjoys the satisfaction of having defeated him for re-election.

This was Seattle's second effort to secure city manager government. Just one year before a manager amendment to the charter had been rejected by 4500 votes in a total of only 56,600 after a campaign featured by the opposition of the city employees, ostensibly non-political and enjoying civil service protection but in fact rigidly organized against the manager plan under the leadership of professional politicians. The city manager advocates may take courage, however, in the larger vote and much reduced majority against the plan within the short interval of one year.

Had the manager amendment, sponsored by Mrs. Landes, been adopted she would have found herself holding a more or less ceremonial position with responsibility for operating details transferred to the manager. As it is she finds herself a "strong" mayor with large executive power concentrated in her hands. Her previous record guarantees an energetic and non-political administration. It is fortunate that the first woman mayor of a large city should be so well equipped and able as Mrs. Landes.

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**Conference Report** The average citizen on the Merit System has but slight understanding of the reasons why installation of machinery for the merit system in the public service is necessary to efficient government. The average legislator has but slight understanding of the true purpose and the possibilities of such machinery. Public officials quite often fail to grasp the significance of or the necessity for the application of scientific employment principles in the public service.

The Conference Committee on the Merit System has produced a report accompanied by a draft of a bill which, however imperfect it may seem to some, is the greatest step that has yet been

taken towards educating those who have a sincere desire to be enlightened. In the group that has worked out this report and draft of a bill are represented the operators of existing civil service systems, the students and theorists of the problem of government, the jurists, the propagandists and the laymen. The members of the Committee are Henry M. Waite, Chairman, and H. W. Dodds, representing the National Municipal League; William C. Beyer and William E. Mosher, representing the Governmental Research Conference; Samuel H. Ordway and H. W. Marsh, representing the National Civil Service Reform League; Charles P. Messick, representing the National Assembly of Civil Service Commissions; and Fred Telford, representing the Bureau of Public Personnel Administration.

The report is published in the January, 1926, issue of *Public Personnel Studies*, the monthly journal published by the Bureau of Public Personnel Administration. The report proper consists of six divisions: 1. The magnitude of the problem; 2. The personnel agency as an effective means of handling public employment matters; 3. The functions of the personnel agency in the public service; 4. The membership, selection and form of organization of the public personnel agency; 5. The law establishing the agency, and defining powers and duties; and 6. The agency's work from the point of view of the operating officer and the taxpayer. The appendices contain statistical tables, an outline of suggested functions of a public personnel agency, and finally, a draft of an act to create a public personnel agency.

Such a report and draft of a bill, agreed upon by these persons, will undoubtedly carry great weight with citizens who have an honest desire to know the facts and who wish to improve civil service administration.

Originally, the employment problem in the public service related primarily to the separation of administrative posts from political control; but during the years of growth of competitive examinations, which have been applied in the federal service, ten states and three hundred odd cities, many other intricate phases have arisen which have called for careful attention and scientific solution. Among these are classification of positions, standardization of salary schedules, promotion for meritorious service and the separation of the incompetent and inefficient from the service.

Expert administrators in the public service have led the way for private employers in the solution of some of their employment difficulties and in the last decade there has been a noticeable tendency on the part of private employers to adopt some of the methods which have been worked out in public employment jurisdictions. They have been accepted because of their intrinsic value and not because of any necessity for the elimination of the spoils system.

To those who are eager for a better understanding of the purpose of an up to date civil service system, the report of the Conference Committee and its

draft of a bill cannot fail to be intensely interesting, and, it is hoped, satisfying.

H. W. M.

Should Transporta-  
tion Be a  
Monopoly?

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The Philadelphia  
Rapid Transit Com-  
pany has purchased  
the Yellow Taxicab system of the city  
and intends to operate it in conjunction  
with the surface cars and elevated lines  
now under its management. Some  
fear has been expressed as to what will  
happen to taxicab service but Mr.  
Mitten, famous for Mitten manage-  
ment, has announced that he intends to  
move forward until all the public trans-  
portation facilities are under one con-  
trol. The logic of his position is prob-  
ably sound. From the standpoint of  
abstract economics the advantages  
would seem to be with the single unified  
system embracing all means of local  
transportation. But once Mr. Mitten's  
ideal is attained, the bargaining  
power of the unorganized public will be  
greatly reduced and the need for and  
difficulties of regulation will be pro-  
portionately increased. The question  
is: Has regulation attained such perfec-  
tion as to enable it successfully to cope  
with the new condition towards which  
Mitten management is driving?

# THE MOTOR-COACH DE LUXE IN CITY AND COUNTRY USE

BY WALTER JACKSON

*Fare and Bus Consultant, Mt. Vernon, N. Y.*

*The future of the motor-coach in relation to electric cars and the new problems raised by interstate traffic. :: :: :: :: ::*

TEN years ago it was the touring-car jitney, five years ago it was the soon-bedraggled jitney bus, and now it is the interstate de luxe motor-coach that is proliferating over the land like rabbits in Australia.

The touring-car jitney grew like a toadstool and died like one, after inflicting severe injury on hundreds of electric railways. However, "there is some good in the worst of us." The good that the jitney did was to arouse electric railways to the possibility of using smaller and therefore faster cars on shorter headways instead of expecting automobile owners to stand on street corners for 15 or 20 minutes for the doubtful pleasure of riding a twenty-year-old car, often imported—after becoming obsolete—from a larger city.

The motor-bus has proved a more durable competitor. The shabby contraptions of the original operators have given way to vehicles of higher and higher quality. Hand in hand with this development has come the elimination of independent, individual bus owners, partly through legislation and partly through purchase by the existing electric railways.

Furthermore, in small communities where the law or political conditions prevented relief from paving and other heavy burdens, there has been a complete replacement of rail by bus. It does not follow that the substitution has always yielded a profit. In several

instances, the change has resulted in higher fares to the public without bringing a profit to the bus company. The bald truth is that no public transport system, whether trolley or bus, is likely to make money in communities where the majority of the inhabitants can ride to and from their jobs in their own or their neighbors' vehicles.

Quite a number of these replacements have been made by the local power and light company purely as a matter of maintaining good public relations. On the other hand, railways which were not owned by the power and light company have generally gone out of business altogether. The small-town bus properties that do pay are usually run by individuals who operate without the high standards of reliability and adherence to labor laws demanded of a corporation.

## BUS USEFULNESS UNDOUBTED

While the replacement of trolley by bus has not proved a new road to Golconda, there is no question about the tremendous usefulness of the bus in permitting the economic development of a co-ordinated public transport system. In former days, the only way to prove to the public that a certain extension was unprofitable was to go to the enormous expense of building and operating it. To-day, a trifling fraction of the same outlay will give the same proof. Better still, the low investment cost and the flexibility of the

bus will generally reduce the losses to the point where the local system can afford to nurse the new route along to the point of self-sustainment.

It would be rash, indeed, to lay down any unvarying rule with regard to the relative places of motor-bus and trolley car. Allowing, then, for qualifications in different cases, one may say that if the city transport conditions do not justify a better headway than 10 minutes, conditions favor the use of motor-buses.

The main qualification is the paving charge. Put car and bus on an equality in this respect, and the advantage lies with the trolley for headways of 15 and possibly 20 minutes.

A second qualification is the cost of power. I know of at least one "busification" that was due to the high cost of electricity bought from a power company. The railway was too small to make its own power cheaply and turned to the bus because no relief was in sight. If the power price had not been such a factor, the only bus operation in this town would have been the logical function of developing a route to a new suburb. Instead, the trolley routes were also "bussed" with no changes in their direction or length. In the first year of bus operation, the former trolley routes did 10 per cent more business on the original fare of 7 cents. In the second year of bus operation, travel fell back to trolley numbers while maintenance of buses began to go up. To-day the public pays 10 cents for the same speeds and the same headways. The bus has provided safer boarding, but it is inferior to the replaced cars in number of seats furnished, in spaciousness of seats, aisles and platforms, in lighting, in heating and in ventilation. The public's "rubber urge" cooled off after the first year and has become positively chilly since the fare was raised to 10

cents. The operator is not yet earning a return on his investment.

From the attitude of bitter opposition to the desirable applications of the motor-bus suggested by me during 1920 in a series of *Electric Railway Journal* articles on "The Place of the Bus," many old-time electric railway operators are swinging to the opposite extreme. A favorite word in their litany is "co-ordination," but in practice it turns out that they think "co-ordination" means "alternation." Hence we see the strange spectacle of trolley cars and motor-buses doing exactly the same job between two terminals and at the same rates of fare.

This misconception of the true scope of the motor-bus in cities impels me to set forth the idea of the far greater value the bus can give by offering a quasi-express service than by simply aping the street car.

#### USE MOTOR-COACHES FOR CITY EXPRESSES

When a jitney-bus operator competes with a street railway, he is generally unwilling to develop new areas or new kinds of customers. He simply follows the rail as closely as permitted and gives the same stop-to-stop service that the trolley does.

When an electric railway acquires the bus service, it is liable to get the idea that "co-ordination" is attained when some reduction has been made in the number of units operated. True, such reduction can be made at an actual shortening of headways because before consolidation the buses usually started just a few feet ahead of the cars; but except for the shorter waiting time, the passenger is receiving no faster service than before.

Advocates of this "alternation" of car and bus seek to justify themselves by stating that the public would be wroth at the withdrawal of the buses,

no matter how many cars were operated. Doubtless, the public would be. On the other hand, it would be pleased indeed if it saw that the operation of car and bus under one management brought it something new and agreeable, to wit, the operation of express buses to the more remote points along the route while the trolley cars—which cannot pass around slower vehicles—were reserved for local service.

In discussing this kind of service, which can be made to mean so much to cities not large enough for rapid transit elevated and subway systems, I prefer to use the term "motor-coach" rather than "motor-bus" because the success of the joint operation will depend upon drawing many persons who are now using personal machines. These persons can be drawn to the public utility only by something that approaches the speed and the luxury of their own vehicles. This means that the vehicle chosen should be of high grade and relatively small capacity—say not more than 21 individual seats. In turn this implies a higher rate of fare, like 25 cents. This fare should appear reasonable enough to the type of person who "rolls his own" at a pretty stiff cost per mile and who may be paying a 25-cent or 50-cent daily parking charge on top of said cost.

It was my privilege to recommend such services in reports made at Pittsburgh and Kansas City, and it is gratifying to learn that both the Pittsburgh Motor Coach Company (a relative of the Pittsburgh Railways) and the Kansas City Railways de luxe coaches started during 1925 have achieved popularity quickly. The Chevy Chase express coaches of the Capital Traction Company, Washington, D. C., inaugurated September 15, 1925, are also on a 25-cent basis. The respective street railway fares are: Pittsburgh, 10 cents cash,  $8\frac{1}{3}$  cents

token, \$1.50 unlimited-ride weekly pass; Kansas City, 8 cents cash and  $7\frac{1}{2}$  cents or 7 cents tokens; Washington, 8 cents cash,  $6\frac{2}{3}$  cents token, but with a further charge of 5 cents cash or 3 cents ticket (sold 100 for \$3) for the Maryland zone between the city line and Chevy Chase Lake.

In sum, these express, longest-haul services are run at two to three times the standard carfare.

There is a lesser differential at Toronto, where the coach fare is 10 cents and the trolley fare 7 cents cash down to  $6\frac{1}{4}$  cents ticket. This is not strictly an express service, but a 5-minute headway route serving a fine residential district not conveniently reached by car lines.

The Detroit Motor Bus Company and other double-deck operators have operated non-stop services from time to time, but for franchise or other reasons these express operations have not been developed in a big way. A double-deck bus is less suitable for such business than an enlarged limousine. The public has become critical of hard tires and scanty seats. It demands, and will pay for, a vehicle fairly equivalent to the personal machine.

Experience with express-coach operation may lead to lower costs to regular riders than 25 cents per trip, but ordinarily such service is worth around double the trolley fare because of the greater speed, finer upholstery and seat for every passenger.

In British cities, a somewhat higher fare for the city or short-haul portion of a suburban run is in itself enough to reserve these vehicles for the long-haul riders. In America, with its greater spending power per man, a fare differential alone is not enough to avoid frequent stops. Extra-fare coaches must be operated frankly as express coaches if they are to serve for quasi-rapid transit purposes.

So much, then, for the difference between "alternation" and "co-ordination." Alternation is simply a reduction of waste; co-ordination is a development of new business from the ranks of that ruthless robber of street space—the personal car.

THE INTER-STATE COACH, A JUMP  
AHEAD OF THE LAW

And now we come to the latest child in the family of self-propelled vehicles, the interstate motor-coach. The cross-country or interurban coach within state lines has been growing lustily for the past decade ever since the first Californian rebuilt a touring car to take tourists over his marvelous land, but the interstate variety did not stand out by itself until decisions of the United States supreme court during 1924 confessed that the law had not yet caught up with the interstate operation of motor-coaches.

Here was a pretty state of thing: Transport on rails both intrastate and interstate is so closely regulated that, as occurred to a client lately, a railway cannot even *reduce* an interstate fare without thirty days' formal notice. On the other hand, comes a form of transport operated not on a private but on a *public* highway which the highest court in the land tells us cannot be effectively controlled by any laws of the states or municipalities through which it passes.

What could better prove the lack of flexibility in our interstate relations?

So many individuals and companies have seized the opportunity thus offered that to-day the utmost confusion exists with regard to the merits of, and need for, such services. There is no doubt whatever that there is a legitimate field for such operation, but how and when are they going to be regulated so that they can be run on a basis dependable to the public and

profitable to the operator? Also, who is to receive the preference when regulation does come?

To-day, for example, the steam railroads, electric railways and motor-bus operators of eastern New England are engaged in the sharpest kind of struggle for motor-coach routes; and local regulatory bodies can do little to avoid waste and friction. The Philadelphia Rapid Transit Company leaps across the full width of New Jersey to get into New York, while the local electric and steam railroads of New Jersey find that more than 100 luxurious motor-coaches have been put on within a space of six months in 1925 (*vide Bus Transportation* for December, 1925) for service to New York.

Now it would be absurd to say that many of these coaches do not give the public a more direct and pleasant service than the use of four or five transportation units (buses, trolleys, steam cars, ferryboats) that are otherwise necessary in traveling between a town in New Jersey and a spot in New York city.

But it is also a fact that although the coaches charge about twice the railroad fares and are very popular—despite the present handicap of ferry delays, they are not making money consistently. As soon as one route appears profitable, it draws more competitors and then profits are at an end. On the other hand, if a comprehensive service of this kind had been developed by co-operation of the railroads themselves, the independent operator might have been scared off and the business put on a sound basis despite the absence of regulation.

The thing to be feared is that when regulation does come it will not apply the *ex post facto* principle. As in many preceding cases, it may be held that those who were doing an interstate business preceding regulation will not be required to meet the same conditions

as newcomers. This means a case of dog-eat-dog for years to come until the survivors form corporations, or are bought out by the railways. The latter are not likely to get bus routes just for the asking when someone else has been on the job for several years.

The present status of affairs is that the National Association of Railroad and Utilities Commissioners has urged congressional action, inasmuch as the Interstate Commerce Commission has declared it has no authority to regulate interstate coach operation. During the latter part of 1925 a draft of such a bill was prepared by representatives of the

rail carriers and automotive organizations for presentation to congress.

Here the matter rests; but if the past is any guide to the future, several years will go by before interstate regulation becomes really effective. City railways lost many millions of dollars because of an erroneous belief in the quick effectiveness of municipal and state regulation of buses. Interurban electric railways and steam railroads must not repeat the error of hopeful waiting, but should occupy as many strategic routes as they can now. It will cost a lot more to buy out franchise rights later.

# ELECTION REFORM AT PENNSYLVANIA'S SPECIAL SESSION

BY EDWARD THURBER PAXTON

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*Elections in Pennsylvania last fall were marred by serious frauds in four parts of the state, but the legislature in its wisdom saw fit to reject the recommendations of the Committee of Seventy-six appointed to report on election abuses. :: :: :: :: :: :: :: ::*

SPECIFIC reform of election laws was one of eight topics submitted to the general assembly of Pennsylvania by Governor Gifford Pinchot, in his call for the special session of that body which convened on January 13, 1926.

Brazen fraud in Philadelphia, Pittsburgh, and Scranton, in connection with both the September primary and the November municipal election of 1925 (at which judges of state courts, as well as local officers, were nominated) was a matter of record.<sup>1</sup> As stories of these frauds swept the state,

there were numerous manifestations of disgust and rage, particularly from the rural communities and the smaller cities, as people realized that their votes could be, and were being, negatived by tens of thousands, sometimes by mere penstrokes, in other portions of the state.

## OLD-FASHIONED FRAUDS EXPOSED

Governor Pinchot accordingly appointed a "Committee of Seventy-six," a body of 76 citizens drawn from all parts of the commonwealth, to ascertain and report to him the facts concerning election abuses and to recommend means of improvement.

<sup>1</sup> Some of the election frauds in Philadelphia were described in the NATIONAL MUNICIPAL REVIEW for January, 1926, page 28.

Dairymen, publishers, bankers, manufacturers, ministers, lawyers, educators, business men, coal miners, social workers, and club-women found their ranks represented in the Committee of Seventy-six. Among its members were two judges, a member of congress and other public officials, the state chairman and three former state chairmen of the Democratic party in Pennsylvania, the president of the state federation of labor (a noted socialist leader), and the state presidents of the W. C. T. U., the federated women's clubs, the League of Women Voters, and two organizations of Republican women.

"Abundant evidence exists," so this committee reported, "in certain parts of Pennsylvania, notably in the city of Philadelphia, in the city of Pittsburgh, in the county of Luzerne, and in the county of Lackawanna, of the operations of a treasonable conspiracy to deprive large numbers of the citizens of their voices and votes in the selection of the officers who shall rule over them.

"It has been demonstrated that the names of persons who do not exist, and of absentees and non-residents, have been entered upon the registration books; and that agents of the conspiracy have cast and counted votes in these names.

"It has been demonstrated that votes actually and legally cast for candidates whose defeat is desired are deliberately disregarded and nullified in the computation of the election returns.

"It has been demonstrated that the election returns are falsified by adding to the votes actually and legally cast for candidates favored by the heads of the conspiracy votes not cast at all, or cast for their opponents.

"It has been demonstrated that votes are manipulated in such large numbers by these methods that in some election divisions candidates actually and lawfully defeated have been

returned as victorious, while those who actually and lawfully received a plurality of the votes have been returned and recorded, by perjured election officers, as having been defeated.

#### BALLOT BOX OPENING RESISTED

"It is known that in addition to these frauds, revealed by examination of the registration lists and by the inspection of the contents of ballot boxes opened in the face of great difficulties imposed by the processes of the law, ballots cast for candidates opposed by the beneficiaries of the conspiracy have been invalidated by the unlawful and secret addition of contradictory marks thereto; that the election returns from some divisions have not been counted at all, but 'estimated'; and that under the operation of the loose and injudicious provision of the election laws called the 'voters' assistance' clause, which permits any voter to claim the aid of another in marking his ballot upon the mere statement that he is laboring under a disability, one man is enabled to mark the ballots of scores or hundreds of others; it is known there are districts where school teachers are not allowed to mark their own ballots, but are required to have it done by a school director or an agent designated by him; this to the prejudice of the secrecy which should surround the casting of the ballot and to the encouragement of intimidation and bribery. . . .

"The conditions above outlined are . . . a fraud upon every honest voter in the commonwealth, since each vote stolen from a candidate for state or federal office in any part of Pennsylvania, or illegally given to such a candidate, nullifies the franchise of a citizen resident elsewhere in the state; . . .

"So gross have been the election scandals recently brought to light in

various parts of the state, so brazen has been the theft of votes on a wholesale scale, as to indicate . . . the existence of a grave emergency which calls for immediate and energetic action for the protection of the ballot and the preservation of the dearest rights of citizenship."

VOTING MACHINES AND PERMANENT  
REGISTRATION APPROVED

Thereupon, the committee recommended 12 principal changes in Pennsylvania election law:

(1) Mandatory opening of ballot boxes upon petition of five electors of the county averring belief of fraud or error in computing the vote. Present law limits the right to petition to residents of the election division (precinct) and then leaves the opening of the box to the discretion of the court.

(2) Restriction of "assistance" in the voting booth to voters actually physically unable to see or mark the ballot; the assistance to be predicated upon the filing, for preservation, of an affidavit specifying the particular physical disability.

(3) Requirement of a numbered stub on each ballot, to be inspected and detached just before the deposit of the ballot, so as to insure that each voter would deposit the same ballot lawfully given him, and to prevent the substitution of an illegally marked ballot and the carrying off of the legal ballot for illegal marking.

(4) Prompt computation of the vote, immediately after the closing of the polls, and prompt delivery of ballot boxes to the county seats.

(5) Unmistakable confirmation of the right of citizens to examine election records.

(6) Permission for the optional adoption of voting-machines by townships, boroughs, or cities.

(7) Permission (by constitutional

amendment) for legislation requiring the use of voting-machines in cities or classes of cities, without imposing a similar requirement upon other parts of the state.

(8) Permanent in place of annual registration of electors, and simplification of the process of registration.

(9) Identification of voters by signature at the polls.

(10) Abolition (by constitutional amendment) of the tax qualification for voting.

(11) Removal (by constitutional amendment) of the requirement that overseers of elections be residents of the election district; and requirement instead that they be residents of the county.

(12) Requirement of jail penalties for all violations of election law.

SLAUGHTERED IN THE SENATE

Bills embodying these changes were prepared by the Committee of Seventy-six and introduced in the general assembly, with the backing of the administration, at the beginning of the special session. They faced a hostile legislature, which seems at first to have planned to accord them one public hearing and then allow them to lapse in committee.

The hearing, replete with incident, was marked by the dramatic and tragic death of Senator John P. Harris, of Allegheny county, sponsor of the election bills and in many ways the most powerful proponent of election reform in the state. Senator Harris fell from his chair, a victim of heart attack, scarcely a moment after he had finished the cross-examination and discomfiture of the attorney for the Philadelphia Republican organization, who had appeared in opposition to the bills. His death probably altered materially the course of the session.

At the hearing, too, the Democratic

state chairman, who had accepted a place on the governor's committee and had sat through its sessions without a word against its proposals, took the floor against some of its principal recommendations, especially permanent registration and the limitation of "voters' assistance."

Two radio addresses by the governor, sizzling with denunciation of "ballot thieves" and the "gang-controlled legislature," shook the rumored purpose to let the bills die in pickle. Personal letters were sent by the governor on two occasions to 30,000 citizens, and each time the results were manifest in the legislature. But they did not secure the passage of the bills.

With the exception of the constitutional amendment regarding voting-machines, all twelve measures were defeated in the senate by majorities that ranged from 7-35 to 17-25. The voting-machine amendment was first far altered from its original purpose, and then was passed possibly not without a tongue in the cheek, for constitutional amendments are not adopted until they have been passed by two successive sessions of the legislature and approved by the voters on referendum.

For the bill requiring mandatory opening of ballot boxes, a substitute was introduced and passed. It applied

only to primary elections, and limited the right of petition to residents of an election division, required the petitioners to specify the fraud or error they believed had occurred, and required a cash forfeit if fraud or error were not found.

A third measure, evolved by the legislature, was enacted, creating a commission of 17 members to codify and revise the election laws and report to the regular legislative session of 1927. The commission was to be made up principally of legislative leaders and their appointees and party organization chairmen; though three members were to be appointed by the governor.

Both latter measures were promptly vetoed. The ballot-box bill, the governor stated, was less helpful to clean elections than the existing law. The resolution for an election-law commission (which carried a \$25,000 appropriation) he held, by reason of the required composition of the commission, would simply betray the cause of election reform into the hands of its enemies.

Newspaper comment seems to indicate that by its course the party organization in power has placed itself badly on the defensive, and that the next result may be the appearance of new faces in familiar legislative seats when the general assembly convenes after the next election.

# THE KRUMGOLD CASE, THE LAST WORD ON ZONING IN NEW JERSEY

BY FRANK B. WILLIAMS

*The New Jersey court, in sharp contrast to the courts of other states, continues its hostility to zoning.* :: :: :: :: :: ::

IN a democracy the will of the people prevails; but in some cases it prevails slowly. In New Jersey there are more zoning ordinances than in any other state in the Union, and the courts of New Jersey have practically declared zoning in that state illegal. There are, no doubt, ways of presenting zoning to the New Jersey courts which would give them the opportunity of upholding it, under the present constitution, but the courts have declined as yet to see any connection between the zoning ordinances which have come before them and the public health, safety and general welfare. It does not follow logically, that other and more cogent evidence of this connection might not be produced in some future case; but it seems evident from a study of the decisions that the judges are not likely to change their position. In all probability the Krumgold case,<sup>1</sup> decided recently by the court of errors and appeals—the highest court in the state—is the last word from the courts on zoning in New Jersey under its present constitution.

## NEW JERSEY BEGAN WRONG

The genesis of the existing situation in New Jersey is well known. Prior to 1924 the statutes in that state authorizing municipalities to pass zoning ordinances were numerous, overlapping and confused. None of these statutes

provided adequately for boards of appeal, to be appointed by the municipality, to which individual cases of hardship and injustice arising out of the application of general rules to exceptional cases must be referred, before resort to the courts to declare the ordinance void for hardship and injustice.

In other states where enabling acts authorized boards of appeal, zoning has been sustained. It was the hope of friends of zoning that under similar statutes it would be upheld in New Jersey; and accordingly the statute of 1924, applicable to all the municipalities in the state, was passed. The vital question was whether the courts would compel the aggrieved applicant to go to the board of appeals. In the lower courts the rulings on this question were both ways, but in the Krumgold case the judges decided that this was unnecessary, the ordinance being void.

To some, boards of appeal may seem a mere technicality; but in fact they are machinery essential to the attainment of very practical results. However carefully zoning regulations are drafted, it is impossible to visualize and provide properly for all the cases which will arise under them, with relation to buildings of numberless sorts, to be erected for all kinds of uses, on lots of every conceivable size, shape, location and relation to prior development. To apply literally to the exceptional case the general rule conceived without reference to it, may cause hardship and

<sup>1</sup> *Krumgold and Sons, Inc. v. Mayor and Aldermen of Jersey City, N. J.* Adv. Rep., Vol. 3, p. 1546.

injustice. The general rule cannot be continually changed; and if it were, exceptional cases of hardship under it would also soon appear. The only practical method of handling these matters is to place somewhere the power in exceptional cases to vary the letter of the rule, in accordance with its spirit and intent. It is most inexpedient that the building inspector, who in more than ninety-nine cases out of the hundred must apply the rule literally and speedily, should make exceptions. This function should be performed after the vast mass of the cases have been disposed of in regular course, and the exceptional cases treated by themselves. This is accomplished by giving any applicant who is denied a permit to build in a particular way at a particular place, the right to appeal; and such appeals, involving as they do the exercise of judgment and discretion, are most advantageously dealt with by a local board familiar with the facts. It is a part of this system that the litigant should be compelled to go to the board of appeals for relief from hardship and injustice, and resort—by certiorari—to the courts for a review of the discretionary action of the board. If the court decides that the board has failed to use its discretion rightly, the court will send the case back to the board for reconsideration. This system the courts generally have sustained both in zoning and other matters. In other matters it seems heretofore to have been regarded as valid in New Jersey,<sup>2</sup> but in zoning, as already stated, the New Jersey court, in the Krumgold case, refused to uphold it, ruling that a resort to the board of appeals, as required by the statute of 1924, was unnecessary.

<sup>2</sup> See the brief for Respondents in *Rohrs v. Zabriskie*, Supreme Court.

#### THE EXCEPTION WHICH PROVES THE RULE

It is worthy of note that during the period in which the New Jersey courts were coming to the conclusions the practical result of which was to render zoning under its existing constitution impossible, the other states were adding considerably to the already great preponderance of judicial opinion in this country in favor of zoning; as, for instance, in *Miller v. Board of Public Works*<sup>3</sup> and *Zahn v. Same*,<sup>4</sup> in which the highest court in California reversed the decisions in the lower courts; in *Aurora v. Burns*,<sup>5</sup> in which the Supreme Court of Illinois changed its ruling on rehearing; in the Opinion of the Justices of the State of Maine,<sup>6</sup> in *State ex rel. Shad v. Fowler, Commissioner of Buildings*,<sup>7</sup> in which Florida for the first time expressed its judgment on the subject by pronouncing in its favor; and notably the case of *Wulfssohn v. Burden, Inspector of Buildings of the City of Mount Vernon*,<sup>8</sup> decided by unanimous opinion of the highest court in the state of New York, which was discussed in the February issue of the REVIEW. The only outstanding exception among the late cases is *Goldman v. Crouther, Inspector of Buildings*,<sup>9</sup> overturning the Baltimore ordinance, for which there was no state enabling act. This case and the Krumgold case cannot be regarded as altogether harmful to the cause of zoning as a whole in this country, if they tend to emphasize the fact that in zoning, adequate enabling legislation, in which due provision for boards of appeal is made, is essential.

<sup>3</sup> 234 Pac. Rep. 381.

<sup>4</sup> 234 Pac. Rep. 388.

<sup>5</sup> 319 Ill. 84.

<sup>6</sup> 128 Atl. Rep. 181.

<sup>7</sup> 105 Southern Rep. 733.

<sup>8</sup> 241 N. Y. 288.

<sup>9</sup> 147 Maryland 282.

# THE CITY MANAGER AS A LEADER OF POLICY

BY ELLEN DEBORAH ELLIS  
*Mount Holyoke College*

*Should the city manager be a leader in the formulation of policy? Is it proper that he should be "in politics"? Or must he remain merely an executive responsible for routine operation only? :: ::*

To all those who are interested in the difficult problems of leadership in democracy the discussion that has been developing during the past three years in the pages of the *NATIONAL MUNICIPAL REVIEW* with regard to the place and functions of the city manager is of peculiar significance. I refer in particular to three articles, of which the first, "Thoughts on the City Manager Plan" by Mr. J. W. Routh, appeared in the *REVIEW* for April, 1923, the second, "Municipal Government in the United States: Some Impressions," by Mr. I. G. Gibbon, in the *REVIEW* for February, 1925; and the third, "Cleveland's City Manager," by Mr. Norman Shaw in the *REVIEW* for December, 1925.

## TENDENCY IS TOWARDS POLICY-DETERMINATION

The writers of both of the earlier articles deplore the growing tendency on the part of the city manager to become a policy-determining official. Mr. Routh suggests a definite alternative in "the enlargement of the importance of the mayor, the president of the council, and [in the] recognition of him as the real political leader of the city." Mr. Gibbon, while he declares that the machinery for deciding policy should in our cities receive greater attention than has heretofore been given to it, and urges that "some means be devised wholly outside the city man-

ager for the public advocacy and defense of measures of policy," is not explicit as to how these things shall be brought about. Mr. Gibbon's chief objections to the assumption of the policy-determining rôle by the city manager are first, that too much authority and responsibility are thereby concentrated in one person, especially in one not elected by popular vote, and secondly, that the security of tenure of the manager, and as Mr. Gibbons fears, the permanence of the whole city manager plan is endangered by the fact that the city manager in becoming the public spokesman for the policies he advocates is thereby embroiled in local politics. Mr. Gibbon feels also, if I rightly understand him, that the formulation of policy by the city manager—the executive branch of the city government—is to be discouraged as entirely opposed to the American tradition of the separation of power and the determination of policy exclusively by the legislative branch of our government.

It is true that the determination of policy by an executive official is contrary to American tradition; but there is a growing conviction at present that American tradition in this respect is notoriously bad and unfortunate. Our whole governmental machinery devised as it was under the potent spell of the doctrine of natural rights and of the separation of powers, almost wholly

precluded at the start the possibility of any adequate leadership, and it is only very slowly and with infinite difficulty that a new machinery is here and there being worked out to allow of even a moderate degree. If also, responsible leadership in any real sense is ever to come to America it will in all probability have to come first to the smaller units of government which are more flexible and more susceptible of change than are the larger governmental areas. Leadership is everywhere and always, moreover, a one man affair, and if coupled with commensurate responsibility need alarm no one, least of all a member of that country where it has been carried to so high and so beneficent a point. It is indeed frequently pointed out that even in the English cities real leadership has come more and more to be concentrated in the permanent officials of the departments, whose counterpart Mr. Gibbon finds in the city manager, in that the standing departmental committees and the borough councils are now more and more habitually accepting their advice.

#### FORMULATION AND EXECUTION GO HAND IN HAND

In the American city manager plan the responsibility of the manager to the council is absolute and immediate, and inasmuch as in this plan the principle of the short ballot prevails and the people are in a position to center the general responsibility for the municipal government directly on the municipal council, it may also be said that the indirect responsibility of the manager to the people is very real. It would seem also that this indirect responsibility of the executive to the people through the legislative branch is just the relationship that obtains in the English system of cabinet government. I realize that Mr. Gibbon and others, seeing in the city manager only the business expert

and the permanent executive official would be loath to agree that such responsibility to the people is a desirable thing, inasmuch as through it the manager would become embroiled in city politics,—to the impairment, as they believe, of his efficiency and independence.

Is it not, however, an equally serious question whether persons can be found with the ability required for the city managements of our larger cities who will be without their own very definite and highly useful ideas of what to do in the city, as well as of how it should be done? In other words, in the highest executive posts do not the formulation and the execution of policy necessarily go hand in hand, and are not those who are to put the policy into effect in many ways the best judges of its practicability? And so far as their efficiency is concerned, is there not about an even chance of its being reduced through their becoming identified with city politics and through their loss of initiative and interest in being reduced to the place of mere executive? It will be remembered by those familiar with Mr. Lowell's *Government of England* with how great emphasis he declares that the first requisite in a successful responsible government is that those who are held responsible should be themselves the formulators of the policy that they put into effect, since, as he points out, no true responsibility can be felt or assumed for a plan or a policy that is not one's own.

The present objection to the city manager's assuming a policy-determining rôle is doubtless in large part the result of the fact that when the commission and the city manager plans of government were instituted in America the dominant motives were the desire to free the city from its subservience to national polities and political parties, and the conviction that local govern-

ment is pre-eminently a matter of business rather than of politics. And there can be no doubt that the city manager movement has done a great deal to divorce city government from national politics and to put it on a business basis. The present tendencies in the office of the city manager, however, indicate very clearly that political leadership, conceived from the point of view of city issues and policies, is necessary and inevitable in "all progressive communities" and the question therefore becomes: Who is to assume the rôle of political leader in our cities?

#### CAN THE MAYOR FILL THE BILL?

Mr. Routh suggests that the office of mayor should be "exalted" and that he should be given authority to initiate legislation, with a limited veto power, and even, perhaps, the power to nominate and remove the manager with the consent of the council. Thus, he believes, can political leadership, to him an essentially legislative function, be obtained, and at the same time the legislative and executive functions be kept quite distinct, a state of things which he advocates as necessary to the success of the manager plan, and which Mr. Gibbon, also, favors as in harmony with American tradition. In such a plan the city manager becomes simply an executive in the narrower sense of the term. It would even appear that for the complete separation of the executive from the legislative advocated by Mr. Routh, he must be deprived of the right, now usually exercised, to be present at the council meetings to hear and to be heard, that rôle to go supposedly to the mayor. This as already pointed out is doubtless in accord with the part that Mr. Gibbon would assign to the city manager, although Mr. Gibbon would hardly, I think, be willing to see the mayor, who, like the manager, is only one man as

over against the group, assume the leading rôle in determining policy, as Mr. Routh would have him do.

Whether an efficient and interested executive can be reduced so entirely to the executive function and so completely separated from that of policy formulation is a very great question as I have stated above, a question so serious indeed as to vitiate to my mind the position taken by both the writers I have been quoting. And in consideration of it and of the other points also stressed in this paper, the need of responsible leadership in our cities as in all the other units of our governmental machine, the actual tendency on the part of our city managers to become such leaders, as illustrated pre-eminently in the present situation in Cleveland, and the structure of cabinet government elsewhere as a successful type of responsible government, I am led to the belief that the simpler and more natural solution of this very complex problem lies along the following lines rather than along those either directly advocated, or more vaguely suggested by Mr. Routh or Mr. Gibbon.

The first requisite is, I believe, the recognition of the fact that in the city local issues and interests, which are only local politics under another name, and business efficiency must inevitably be linked together, as indeed politics and business methods can never be divorced in any governmental unit however large. It must be clearly understood that although the analogy of the city to the business corporation is closer in many respects than is that of the larger units, something more than "mere mechanical efficiency" is needed for good government, I here quote Mr. Routh, and that that something is, to quote him again, political leadership in "community thinking on community affairs." And the second requisite, I

believe, is the recognizing of the city manager not only as the executive expert to put policy into effect, with a free hand to employ other experts as department heads, and special help whenever and wherever it may be needed; but also as the political leader in the formulation of policy, for the carrying out of which he is strictly accountable to the council and through the council to the electorate. Stress must, however, be constantly laid on the fact that inasmuch as many of the means which the manager must use in executing his policy are highly technical the electorate must be trained not to judge too quickly on the detail but to wait for the accomplishment of the program as a whole.

Strong justification for these beliefs is furnished by the present experiment in city manager government in Cleveland, where in spite of the fact that, to quote Mr. Shaw, "the theory of the city manager scheme and the spirit of the Cleveland charter . . . both alike, call for a dominant council and a manager who is their appointee and servant charged only with the duty of carrying out the policies they determine . . . [and] responsible directly to them for the administration only of the policies they decide upon," as a matter of fact quite the opposite situation prevails and "the whole stage of municipal affairs is occupied by manager Hopkins" who has taken the lead in the determination of policy and has in consequence become involved in City politics. Mr. Shaw feels, if I rightly understand him, that in spite of Mr. Hopkins's success, which he acknowledges to have been very great, "the

theory of his actions is bad, and the precedent dangerous" and that "the only safe course is to restore the council to its full policy-determining power." May it not be however that it is the theory of the city manager plan itself that is at fault, and that the present Cleveland experiment, taken together with similar experiences elsewhere and interpreted in the light of the considerations that I have set forth in this paper, should be accepted as indication that that theory must be reformulated along new lines somewhat like those that I have here proposed?

To the successful working out of such a scheme many other movements of political reform must necessarily contribute. Some are already doing so as integral parts of the city manager plan itself, more especially the short ballot, proportional representation and the extension of the merit system. And, finally, in this as in all efforts for political betterment the supreme contribution must be the education of the voters not only in civic affairs in general, but also in the realization of their own limitations and in the willingness to be led by the right kind of leader. At best all these things come slowly; but there is every reason to believe that if a proper conception of the rôle of the city manager can be evolved, the plan itself will prove to be peculiarly well adapted to the needs and the possibilities of democracy in our cities. There is hope also that through the experimentation of the American cities with this plan we may make a real beginning of truly responsible government under efficient and interested leadership, which may subsequently be applied to our larger areas.

# SKETCHES OF AMERICAN MAYORS

## II. JOHN W. SMITH OF DETROIT

BY WILLIAM P. LOVETT

*Detroit*

A SKETCH of Detroit's mayor should begin with a frame for the picture, as furnished by Walter Lippmann. In his Pittsburgh address before the National Municipal League Mr. Lippmann was "in favor of trying a friendly but watchful co-operation with professional politicians." He prefaced this conclusion with certain observations: "To-day I sometimes find the politician has become as sensitive to criticism as a *prima donna*." "There has come a realization on the part of the leading machine politicians that the old job-grafting type of government was not such very good politics after all."

At this moment in American municipal history there is probably no spot on the body politic more highly sensitive to popular opinion than Detroit. Michigan lets its cities do about as they like. Under its modern charter Detroit has entirely and actually eliminated party politics and the ward system; it chooses its mayor and nine councilmen at large. Its election system is close to 100 per cent in permitting accurate registration of the will of the people. Detroit is to-day as near a perfect municipal democracy as can be found anywhere in America. The game of politics is a game of finding out where the procession is going, and getting at the head of the line.

## DETROIT'S PSYCHOLOGICAL CONDITION

As Detroit is thus sensitive to the

ideas of the prevailing, active majority of its voters, so Mayor John W. Smith, who began January 1 his first two-year term in the office, though his second year as mayor, without doubt represents almost perfectly the present level of civic interest and citizen activity of the automobile city—and no prima donna could be more conscious than he of the actual state of the composite public mind. He is expected to give Detroit as good government as it deserves, no more, no less. Insofar as he falls short of any particular ideal, he will have in mind the excellent reason that Detroit "really didn't want it," or "was not ready for it." Perhaps he will be right.

Detroit, without realizing it, was preparing itself for Mayor Smith, as he was quietly getting ready to be mayor. Michigan's adoption of prohibition in 1916 was one of several factors in the political reform of Detroit. James Couzens, made police commissioner by Mayor Marx, spent two years in non-political, efficient management of the department. When the new charter went into effect January 1, 1919, he naturally fitted into the position of mayor. For four years he handled the new régime on a non-partisan, business-type program.

From the time of his resignation in November, 1922, to be appointed United States senator, till a year ago, when Smith assumed office, there had been a procession of mayors and acting

mayors. The thrill of the new civic era had passed. Detroit's tremendous growth had introduced a maze of problems in material development, each involving a problem of finance, and of controlling a mounting array of construction costs. Heavy taxpayers favored more conservative expenditures than Couzens had courageously approved. Public attention, amounting to anxiety, was centered on the new experiment in municipal ownership of the street railway system.

But who for mayor? Frank E. Doremus, former congressman, a Democratic party leader, was chosen almost unanimously, but his health failed under the strain and he resigned. The acting mayor, Joseph A. Martin, a Couzens' appointee of the former régime, coveted the succession, but there was serious question as to his youth and limited experience or judgment. Naturally a vague desire was voiced for some "big business" or professional man. But the few men suggested as possibilities demurred: they preferred the quiet of profitable private life to the hazards of an election contest, the turmoil of politics and the known difficulties resting in the office of mayor.

In this situation Mr. Smith and his friends saw in advance their opportunity. They planned accordingly. In a close three-cornered fight, resulting in no majority for any candidate, Smith won in November, 1924 (after controversy over the ballot), and repeated his success last November for the full term.

#### POLITICAL STEPPING STONES

At the age of forty-four, "Johnnie" Smith, as he is usually designated, has come up from the bottom by a succession of political promotions flavored with a touch of romance. His humble origin, his life as a newsboy on the

streets of Detroit, his services in the Spanish-American War, including a post-war period in the Philippines, and his early successes as a political leader in east-side wards, are cited with enthusiasm by his friends to prove him a "man of the common people." From 1912 to 1918 he served two years each as deputy state commissioner of labor, chief deputy sheriff, and chief deputy county clerk. A term in the state senate was followed by two years as postmaster of Detroit, under appointment by President Harding; he resigned to become a candidate for mayor.

Heredity and environment co-operated to develop in Mayor Smith an in-born aggressiveness. His Michigan connection with the Roosevelt candidacy in 1912 fitted nicely with his personal admiration of the great and only T. R. Years of political experience have brought maturity to his practical methods and at times have restrained his delight in hitting back at his political critics. He is known in Michigan as one Republican leader not afraid to take up the cudgels openly against Governor Alex J. Groesbeck: the Groesbeck-Smith feud has been running on for years. In the state senate he effectively espoused reform of county government. Most Detroiters believe his services as postmaster were marked by industry and efficiency.

#### MAINTAINS HARMONY WITH ASSOCIATES

Gifted by nature with human understanding and personal magnetism, Mayor Smith, on taking office last year, also showed evidences of an administrative mind: he could delegate responsibility to department heads, he could grasp readily the essential factors of a municipal problem. His inaugural address of last January showed statesmanlike analysis of the condition of the city, and of its out-spreading and increasing problems of

administration. He favors all possible progress within reasonable financial limits. There has been no taint of scandal. Mayor and council and department heads have worked in remarkable harmony. A score of the most prominent and representative citizens of Detroit have been drafted by the mayor for volunteer services on various commissions or special committees to investigate and advise as to matters of finance, rapid transit, sewage disposal, and the like.

Two years hence we shall have a further record for estimating our mayor. Plenty of prophets predict, as in the past, that Smith will prove to be more a politician than a civic leader. They discount his manifestly wise decisions by alleging that the exigencies of politics are paramount with him in reaching all decisions. He is charged with being "a good political weather-vane," never taking a chance contrary to the wind of popular desire. Some would not be surprised if he resigned, to run for governor next fall.

While most of his appointments have been commendable, he was severely criticized on the ground that certain others had been forced by political considerations. He also faces a difficult situation in the fact that this expanding city seems dominated by liberal elements, refusing to obey the laws against gambling, prostitution, and "blind pigs." The vicious forces, commercially organized and more or less rampant, are possibly more lawless to-day than at any time in the past decade. The great majority of citizens are apparently indifferent, or "waiting to see what the mayor will do."

#### THE KITCHEN CABINET

The Smith program is supposed to be laid out in conferences of the mayor with a kitchen cabinet hard to equal

for astute judgment of political conditions. Thus the mayor has been able to command the support of "the better elements" in the business world, and of those thousands in the common mass who have votes, who will "do their stuff" politically, and who will in turn enjoy freedom from too tight a lid on the town. In an open shop city the labor unions, and many non-union men, are with Smith. How much control the union leaders already have in the Detroit Street Railway is a serious question.

Another factor is the Ku Klux Klan. It twice supported one of the mayor's opponents, furnishing in the last campaign a major issue—but whether the issue, for Mayor Smith, was a liability or an asset is a matter of opinion. The *Times*, the Hearst paper, was the original Smith organ and has said much about the Klan peril. The *News*, independent and progressive, has lately changed its tactics and now says a good word for him. The *Free Press* supported Smith as vigorously last fall as it fought him the year before.

All of which pictures the kind of political atmosphere in which we are now living. If the citizen majority are not only right but alert, able and determined politically to sustain the best community program, there is no doubt what Detroit will enjoy. But if a plundering minority should slowly get the whip hand—well, could "Johnnie" Smith be depended on to stop them? That is the question some are asking.

"Every city is governed as well as it deserves to be," these affirm, while they regard Mayor Smith, in this situation, as an asset and a warning to our "pure democracy." The future must decide whether our mayor shall prove to be "just another politician," or, as thousands of good people hope and believe, a real executive.

## ROCHESTER'S CITY MANAGER CAMPAIGN

BY STEPHEN B. STORY

Director, Rochester Bureau of Municipal Research

*Professional politicians have no monopoly on political strategy. If you want to know about a well-run reform campaign, read this article.*

ON Election Day, November 3, 1925, 39,020 people of Rochester voted "yes" on the question of approving a charter providing for the city manager plan, while 25,903 other people recorded their opposition to the proposal. This is the first charter to be adopted as a local law by a city council and approved by the electors of a city under the recent home rule amendment to the New York state constitution. Rochester is actually going to be the proving ground for many of the principles which must, of necessity, be tested in order to establish a clear definition of the extent to which New York state cities will really enjoy home rule.

## SERIOUS WORK BEGUN IN 1923

The first discussions in Rochester of city manager government occurred as far back as 1915. In the years following, addresses to organizations and casual newspaper articles called some attention to the plan. In 1923 a group of citizens announced its intention of making an effort to attempt a formal study of city government. This group appointed Isaac Adler chairman of a committee to be appointed by himself to study forms of city government. Mr. Adler selected eight other persons to form the committee with him. The personnel of the committee comprised the then presidents of the Men's City Club, Women's City Club, the Rotary Club, two labor leaders, the chairman of the Democratic County Committee,

the corporation counsel of the city (the Republican organization's representative) and a member of the board of education.

At its organization meeting this committee requested the assistance of the Rochester Bureau of Municipal Research in the labor of gathering data upon which it was to base its study. The board of trustees of the Bureau voted to comply with this request and the Bureau submitted to the committee a plan which it proposed to follow in its study. This plan called for the study of a number of representative cities under the federal, the commission, and the council manager plans. Especial effort was to be made to study the cities in which the manager plan had been abandoned by vote of the people. As a measure of economy, the Bureau proceeded rather leisurely and made its study of a city whenever the press of ordinary work carried members of its staff to one of the cities on the list compiled for consideration. In the fall of 1924, because of local developments, it became advisable to abandon this rather slow method and speed up the work. All other work was dropped and the study was carried through to its conclusion. Twenty-four cities were included within the scope of the study. The local newspapers carried considerable publicity concerning the activity of the "City Government Plan Committee" and the work of the Bureau in gathering data for it. For some reason

not well defined, but partially because of the fact that the people were being interested in the government, the twenty-two Republicans of the twenty-four members of the common council, and the Monroe county members of the Republican State Committee, caucused and announced through the medium of the newspapers that "the people of Rochester would be given an opportunity to vote on the city manager plan."

This happened during holiday week in 1924.

#### CITY COUNCILS MUST ACT FIRST

This announcement naturally made a difference in the plans of the committee. Under the provisions of the New York home rule law the city councils hold the keys to situations with regard to proposals to change charters. It is not possible to introduce a charter change by petition of the voters. These changes can only be brought about by action of the city councils and by their willingness to give electors an opportunity to vote upon them. Two things can be done:

1. A council can adopt a charter or a charter amendment with certain restrictions as to a referendum, or
2. A council can submit the question, "Shall there be a charter commission?" and provide for the method of its establishment.

It was obvious that any action of the Rochester common council under these provisions (an action which must have been essentially political) could have embarrassed the people who hoped for a change in the form of government. It was possible for the council to adopt an amendment to the charter which provided the manager plan in name but which contained provisions so obnoxious that the proponents of the manager plan would be obliged to vote it down,

thereby killing the "manager" idea for some time as a local issue. On the other hand, it could submit the question of a charter commission and at the same time provide for the appointment of a commission which would either produce an unacceptable charter or, by stalling, prevent the submission of its recommendations to the people for many years. Either situation would have been intolerable.

The council could have called a special election if it so desired, but it was evident that the expense of such an election was an effective barrier. The most serious trouble which the council could have caused immediately was the passage of an undesirable manager charter designed for approval at the fall election. It was necessary to arrange matters to obviate this possibility. The Research Bureau closed its work of gathering data as rapidly as possible and began the preparation of its reports to the City Government Plan Committee. Each city was reported upon separately and reports upon two cities at a time were released to the daily newspapers. These reports were published in full. When the last city was reported upon and the Bureau made its final report it released simultaneously a statement of what a model city manager charter should contain. The object of this was to present a sort of yardstick by which any charter adopted by the council could be measured. If it fell short, it could be opposed with some degree of grace.

The City Government Plan Committee held several meetings and considered carefully the reports of the Bureau. At these meetings questions were answered by the Bureau's staff and certain details of the reports amplified verbally. On March 27 the committee made its decision. Five members voted for the city manager plan, and two opposed. Two members did

not vote. The committee then requested that the Bureau draft a charter providing the city manager plan.

#### THE CITY MANAGER LEAGUE

At about this time the City Manager League came into existence. Its first meeting was a meeting of its sponsors at a dinner at which a definite organization was formed. This organization also endorsed the plan committee's request that the Bureau prepare a charter for it to endorse and for which it would be sponsor.

The trustees of the Bureau voted to comply with these requests and authorized the retention of the best consultants and legal talent obtainable. The actual work upon the charter began on February 25, and on May 15 the completed work was handed to the executive committee of the City Manager League. Meanwhile, the League had increased its membership to more than 22,000 members. On June 23, the charter was introduced in the common council as a local law and referred to committee. All of the newspapers published it in full. The charter itself is an amendment to the present charter, parts of which are retained unchanged, and parts of which are amended simply by elision.

Under the home rule law the council must pass and the mayor must hold a public hearing on all local laws requiring vote of the people at least sixty days prior to an election. As election day fell upon November 3, September 4 became the zero day for the new charter. If the council or the Mayor delayed beyond this date the charter was lost. The whole proposal could be killed simply by inaction. To prevent this, an extraordinary campaign was planned by which sentiment would be developed for the "right to vote" upon the new charter. The common council's regular meeting dates were July 28

and August 25. At either of these meetings the charter could be adopted by the council. Accordingly, the dates set for the "Right to Vote" campaign were from August 6 to 17. Particular pains were taken to see that the plans for the campaign were disclosed to the members of the common council well in advance of the July meeting.

#### ADVERSE COURT DECISION HELPS

On July 7 came news of the decision of the appellate division of the supreme court declaring the home rule amendment to be invalid on grounds of the most technical character. It appeared to be a real setback, but it was decided to proceed with the campaign as planned, except that instead of getting signers to a petition asking for the adoption of the charter in order to get a "right to vote" upon it, signatures would be secured endorsing the city manager plan and any action which would lead to its adoption. The object of this change was to obtain a petition which could be used for presentation to either the common council or to the state legislature in case home rule was declared invalid by the court of appeals.

The council did not wait for the campaign to urge the plan upon it, but passed the charter unanimously on July 25.

The adverse home rule decision was a real help because it focused attention upon the fact that there was a chance for the people of Rochester to be denied the opportunity to decide for themselves what kind of a government they wanted. It gave an opportunity for a lot of unusual publicity.

The campaign for petitioners opened on schedule. The plan utilized so successfully at community chest drives was employed with teams under team captains corresponding to each election district, with divisions, division chairmen, etc., worked out to a fine degree.

Each team had its quota of names to secure. The goal set for the entire campaign was 45,000 signatures. Luncheon meetings were held daily at which reports were received and at which enthusiasm ran high. At the close of the campaign 66,000 signatures were obtained. Of these 66,000 about 11,000 were of members of the City Manager League. The remaining 11,000 members of the League made a total of 77,000 voters on record for the city manager plan. A total which was indeed impressive.

On September 2 the court of appeals reversed the decision of the appellate division and restored in no uncertain terms home rule powers. The way was then clear for the adoption of the charter.

#### GETTING OUT THE VOTE

The next objective of the City Manager League was getting the signers registered on registration day. A very large proportion of the signers were persons who, though qualified to vote, had never done so. The League was able to register but approximately 50 per cent of its signers. There were numerous reasons for this which cannot, for lack of space, be discussed here.

After registration day the League turned its attention to getting out the

vote. Telephone and auto squads, watchers at polling places, and the other familiar machinery of elections were organized in preparation for the test on election day.

About three weeks before election opposition to the charter organized under the name of the "Non-Partisan League for the Preservation of Popular Government." This League's activity helped to keep the question before the people and prevented the charter from being adopted by default, something which it was actually feared would happen. Of this organization and its opposition, much could be said but suffice it to say that failing good arguments against the charter, it resorted to personal attacks upon George Eastman, the kodak manufacturer and one of the most loyal of the city manager supporters, and upon the members of the staff of the Research Bureau which prepared the charter.

The verdict of the people came on election day, and as soon as the first returns were in it was apparent that the efforts of nearly twelve long, hard months were successful. More real improvement in Rochester's city government will result from the new charter than it would have been possible to bring about in the next decade under ordinary circumstances.

# REGISTRATION FOR VOTING IN SAN FRANCISCO

BY JOSEPH P. HARRIS

*The San Franciscos system of registration works well, and it is so different from anything found elsewhere in this country that it affords a suggestive contrast.*

THE system of registering the voters in San Francisco is unique and suggestive. The procedure is quite different from that used in other states, but it is practically identical with the system in operation in Los Angeles and the other cities of California. It is unquestionably the most satisfactory system of biennial registration in use in the United States. In the writer's recent survey only words of highest praise were used by politicians of all parties and groups, in commenting upon the system. The testimony of newspaper men, officers of civic organizations, and public men generally was all to the same effect.

## THE ORGANIZATION

The machinery for the administration of registration is not unique, except for the absence of bi-partisanship. At the head of the election and registration machinery of the city and county of San Francisco is the board of election commissioners, consisting of five members appointed by the mayor. Formerly bi-partisan representation was required by law, but with the adoption of non-partisan municipal elections this requirement was dropped. The present board consists of three Republicans, one Democrat, and one Independent. The members serve for four years, with overlapping terms. Each member receives a salary of \$1,000 annually.

The powers of the board are unusu-

ally wide. The board is an independent spending agency, subject to no financial control by the city and county supervisors. It has comparatively wide powers over the conduct of registration because the state election laws do not prescribe in minute detail the procedure to be followed. The various details of time, place, procedure, and machinery are all left largely to the discretion of the county officers. The board of election commissioners of San Francisco and the election officers of other counties have thus been able to modify and improve various parts of the process of registration without the necessity of getting the law changed. The most significant features of the registration system used in San Francisco and most of the rest of the state have been voluntarily adopted by the county election officers upon their own authority.

The chief administrative officer of elections and registration is the registrar of voters, who is appointed by the board of election commissioners for a term of four years. The registrar of voters has charge of the election office, subject to supervision by the board of election commissioners, which, in practice, is very slight. The present incumbent, Mr. J. H. Zemansky, has had a long and notable career in the office. He not only has charge of administrative routine, but his advice on matters of policy is followed usually as a matter of course by the board.

The permanent employees of the office consist of twenty persons, which is somewhat large for a city of the size of San Francisco. The entire force is under the civil service system of the city and county, and are permanent employees. The average length of service of the present force is exactly eleven years. Few die and none resign. No attention is paid to the political affiliation of the members of the force, and no attempt is made to maintain a balance in the office between the two political parties, as is common in other cities. Politics and political pull seem to have nothing to do with the running of the office.

The salary scale of the office force is high, but conforms pretty closely to the scale paid throughout the city and county service. It varies from an annual salary of \$2,280 paid the stenographer, to \$3,600 paid the chief clerk and also the chief deputy. The registrar of voters receives \$5,200.

The extra help used in the conduct of registration, both in the office and in the field, are also under civil service. From 70 to 80 persons are employed in the field registration campaign, and a somewhat larger number is used in the office to handle registration prior to an election. These temporary employees are employed in order of rating from an eligible list of general clerks. They receive a salary of \$150 per month while employed in the office, and a fee of ten cents per registration while at work in the field.

#### REGISTRATION RECORDS

The San Francisco office has a model system of registration records. The register of voters consists of an individual page for each voter, which is made in duplicate. The original is filed in loose-leaf volumes by precincts, and the duplicate is filed alphabetically for the entire city. The

registration record for each voter is called an "Affidavit of Registration," and is in reality an affidavit, containing an oath which covers all the essential qualifications for voting: age, citizenship and length of residence. The voter is required by state law to give the following information, which is recorded on the affidavit: (1) whether registered elsewhere; (2) name; (3) residence in detail; (4) occupation; (5) height; (6) where born; (7) naturalization record, if foreign born; (8) statement of literacy, and also whether assistance in voting will be required; and (9) party affiliation. The voter and the registration deputy both sign the affidavit, which is dated.

Attached to each affidavit of registration is a stub, which contains the name, address, occupation, party affiliation, and precinct number of the voter. The stub is also made in duplicate. The original is filed alphabetically by precincts, and constitutes a duplicate of the precinct register. The duplicate stub is used as printer's copy in making the printed lists of voters.

Under the requirement of state law, the office has a list of the voters of each precinct printed. This list is known as the "index of voters." It is arranged alphabetically for each precinct. A complete revision is printed before important elections, but supplements are used to bring the printed lists up to date before minor elections. These lists are sold to the political parties and candidates at fifty cents per thousand names. The revenue derived in this way is negligible. Four copies of the list of each precinct are posted within the vicinity of the polls on the day of election.

The registration and election office also maintains a "directory of naturalized citizens." The naturalized citizen is required by law to present his papers when he registers for the first time in

the county. The registration deputy records from the naturalization papers the name, address, place of birth, date, and place of naturalization, on a card provided for this purpose. These cards are filed alphabetically for the entire city, and from them has been printed the "directory of naturalized citizens." This volume is brought up to date by means of a supplement every two years. The naturalized citizen is not required to present his papers except when he first registers in the county. Thereafter his name may be found in the "directory of naturalized citizens," and the naturalization data secured from it. Each field deputy conducting registration is required to carry a copy of the directory for this purpose.

#### PROCEDURE OF REGISTRATION

A new general registration is held every two years, beginning with the first day of January in even numbered years. The voter may register at the central office in the city hall during the entire year, except for thirty days prior to an election, when registration is closed. In addition to central registration throughout the year, a field force of some eighty persons makes a house-to-house canvass of the entire city at the start of a new general registration, to register the voters at their homes. This really amounts to a census of the voters, though it is not possible for the deputies to find every voter at his residence in this campaign.

Each field deputy is assigned to a precinct and required to complete it before receiving a new assignment. The deputies are paid ten cents per registration, and it is customary for them to make return calls in the evenings to register voters who were away during the day. After the entire city is covered once, the force is put back for a second canvass over the city. On the second canvass approximately one-

fifth as many voters are registered as on the first canvass. When the field campaign is finished (usually in March of even numbered years) no further house-to-house registration is conducted until two years later, when a new general registration is held.

At the close of the house-to-house registration, and also prior to every election, a number of branch registration offices are set up in the business section of the city. These branch offices are located in department stores, banks, and newspaper offices. Any person who has not previously registered may apply to any one of the branch offices, as well as the central office, and be registered from any precinct in the city. A large number of people forget about their previous registration and register a second time, but duplicates are thrown out when the affidavits are filed at the central office.

Registration deputies are also sent upon request to all kinds of public meetings to take care of unregistered voters who may be present. Every attempt possible is made to reach the potential voter. The registrar of voters gives hearty co-operation to any organization working to increase registration.

The registered voter who changes his address is required to go in person to the central office in the city hall to register from the new address. He is required to authorize the cancellation of the registration at the old address.

#### CORRECTION OF REGISTRATION

No provision is made for challenging registration and adjudicating the matter before the day of election. Challenges are handled by the election judges of the precinct on the day of election. The board of election commissioners is not authorized by law to cancel registrations, except upon the

basis of death reports and transfer of registration.

There is no official canvass of the registered voters to check up on the residence and other qualifications. The nearest approach to a canvass is in connection with the mailing of official election pamphlets before each election. These are sent out by the election office, and by arrangement with the postoffice, undelivered pamphlets are returned, and are not forwarded to another address. The names of persons who could not be located by the postman are marked to be challenged at the polls. This practice is not specifically authorized by law, and is not used on other cities of the state. It is deemed to be of considerable value in San Francisco.

The registrar of voters may, upon

ducted in the precincts. In comparison with other cities in California using the same system the cost is high, owing to a high personnel cost. This may be accounted for in part by the thorough manner in which registration matters are handled in San Francisco, but there are other factors making for a high personnel cost which space will not permit being taken up here. The system of registration used in San Francisco is not necessarily expensive. The cost per registered voter in other cities of the state is much less than in San Francisco. The average annual cost of registration per registered voter (219,434 in 1924) was 40.5 cents. This estimate does not take into account the following indeterminate items: office rental, equipment charges and lighting.

#### ESTIMATED COST OF REGISTRATION FOR THE FISCAL YEARS, 1922-23, 1923-24

	1922-23	1923-24
<i>Personnel Cost</i>		
Board of Election Commissioners (50% charged to registration) . . . . .	\$2,500.00	\$2,500.00
Registrar of Voters (50%) . . . . .	2,400.00	2,400.00
Permanent office staff (50%) . . . . .	20,941.00	20,941.00
Temporary office clerks (75c) . . . . .	29,003.13	40,388.12
Field registration fees . . . . .	11,689.35	17,619.00
<i>Supplies and Printing</i>		
Printing Index of Voters . . . . .	4,372.94	15,900.15
Registration Affidavits (\$15.44 M.) . . . . .	4,761.70	.....
Printing street guide and precinct book . . . . .	698.00	.....
Supplement to Directory of Naturalized Citizens . . . . .	.....	720.00
Miscellaneous forms, stationery, postage, and supplies (estimated) . . . . .	500.00	500.00
Totals . . . . .	\$76,866.12	\$100,968.27

complaint being filed, require any landlord to submit a list of lodgers, with the date when each lodger began to reside with him. This is rarely required.

#### THE COST OF REGISTRATION

The cost of registration in San Francisco is high in comparison with Milwaukee, Portland, and other cities having permanent registration, but is low in comparison with Chicago, New York, and other large cities having annual or biennial registration con-

#### STATISTICS ON REGISTRATION AND VOTING

A study of the statistics on registration and voting in San Francisco is interesting and significant. It follows quite closely the experience throughout the country. The percentage of potential voters registered has declined greatly since 1860, but it is significant that since 1912 it has taken an upward turn, despite the fact that women were enfranchised in 1912. The percentage of registered voters voting has declined sharply and steadily throughout

the entire period. The percentage of potential voters voting has also declined throughout the entire period, but at a much slower rate during recent years.

The statistics presented here are affected by the registration system in a number of ways. Prior to 1900 an ineffective registration system permitted padding of the lists, as well as impersonation at the polls. An effective registration system has stopped this and thus lowered the percentages. Within recent years the practice of taking registration to the home of the voter has served to increase the percentage of potential voters registered. If due account is taken of the number of citizens who have not satisfied the residence requirements, and of the number who are utterly uninterested in voting, it would seem that the system of registration reaches almost the maximum number of potential voters. In 1920 and 1924 seven out of every ten citizens of twenty-one years of age were registered.

A comparison of the registration by assembly districts in 1920 is presented in the table below. The famous old Barbary Coast district, the crime center of the city, is at the bottom of the list with only 45 per cent of the potential voters registered. The common belief that the lowest strata of society, the criminal element, prostitutes, gamblers and saloon keepers always register and vote is exploded by the facts in the case of San Francisco. The following table is strong evidence that there is little fraudulent registration and voting in San Francisco, for the percentage of potential voters registered is lowest in the districts where fraud would be expected.

EFFECTIVENESS IN PREVENTING  
FRAUDULENT VOTING

Fraudulent voting has practically disappeared in San Francisco. There are no longer any political machines of the old type, with an army of workers reaching down into every precinct, capable of injecting fraud into the

REGISTRATION AND VOTING IN SAN FRANCISCO SINCE 1880 \*

Computed from the records of the office of Registrar of Voters and from the U. S. Census Reports

Year	Potential Voters †	Registered Voters	Percentage of Potential Voters Registered	Votes Cast	Percentage of Registered Voters Voting	Percentage of Potential Voters Voting
1880.....	53,600	43,775	82.	41,292	94.	77.
1882.....	57,847	42,135	73.	39,102	93.	68.
1884.....	62,094	50,642	81.	47,535	94.	77.
1886.....	66,341	48,792	74.	45,716	94.	69.
1888.....	70,588	58,549	83.	55,313	94.	78.
1890.....	74,835	59,770	80.	55,565	93.	74.
1892.....	79,999	67,849	85.	60,790	90.	76.
1894.....	85,163	68,039	80.	61,548	90.	72.
1896.....	90,327	72,992	81.	61,820	85.	68.
1899.....	95,493	62,965	66.	55,275	88.	58.
1900.....	100,637	76,633	76.	65,161	85.	65.
1902.....	105,623	70,716	67.	61,091	87.	58.
1904.....	110,609	81,576	74.	67,770	83.	61.
1906.....	115,595	51,633	45.	38,564	75.	33.
1908.....	120,281	75,388	63.	61,625	82.	51.
1910.....	125,565	75,828	60.	59,724	79.	48.
1912.....	236,436	134,701	57.	105,646	78.	45.
1914.....	250,547	161,846	65.	134,492	83.	54.
1916.....	264,658	182,276	69.	155,747	85.	59.
1918.....	278,769	175,110	63.	103,011	59.	37.
1920.....	292,879	209,469	71.	154,592	74.	53.
1922.....	306,990	200,415	65.	134,503	67.	44.
1924.....	321,101	219,434	68.	159,649	73.	50.

\* The statistics are for the general fall elections

† Estimated for years other than census years.

## REGISTRATION IN SAN FRANCISCO BY ASSEMBLY DISTRICTS, 1920

Computed from the records of the office of the Registrar of Voters and the U. S. Census Reports

District Number	Potential Voters	Registered Voters	Per cent of Potential Voters Registered
Group 1, consisting of districts located in the down town, boarding-house, slum, poorer foreign, hotel, and criminal sections			
33	25,435	11,582	45.
21	20,297	12,323	61.
30	27,264	16,775	61.
31	25,793	16,105	63.
32	38,794	26,138	67.
Group 2. Middle class residential			
29	22,288	16,050	72.
22	9,589	6,959	73.
25	20,526	15,345	75.
23	16,291	12,529	77.
26	27,427	21,146	77.
Group 3. Highest class residential			
28	29,767	21,744	73.
24	17,962	14,350	80.
27	22,105	18,353	83.

election. But the registration system also is a powerful deterrent of fraudulent voting. The voter is required to identify himself at the polls by means of the signature, which is not only compared by the election officers, but must be compared in such a way that party watchers may also make the comparison. Impersonation is practically impossible. Fraudulent voting may be perpetrated under the system, but only with considerable danger of detection.

## SUMMARY

The most significant feature of the system of registration in San Francisco is the house to house canvas to register the voters. Persons who have not seen the system in operation are likely to raise theoretical objection to this procedure, but everyone who has seen the system in operation agrees that it works extremely well. The experience has been that this procedure is not at all conducive of fraudulent registration.

Another notable feature of the San

Francisco system is the divorcement of the election and registration office from bipartisanship and partisan domination. The party leaders on all sides praise the administration of elections and registration in very strong terms, notwithstanding the fact that they are given no representation on the force and are not permitted to dictate the policies. Both parties and the public generally have explicit faith that all sides get a square deal in the elections.

The system of registration records is one of the best in the country. It enables the office to give a higher quality of service to political and civic organizations, voters, and the public generally, than can be found elsewhere in the country.

The statistics on registration indicate that the system registers almost a maximum number of potential voters, but 30 per cent of the registered voters fail to vote. This does not discredit the registration system, but indicates that the problem of non-voting cannot be entirely solved by efficient registration.

A bill providing for permanent registration throughout the state was introduced in the last session of the California legislature, and was supported by the registrar of voters of San Francisco upon the ground that it

would reduce the cost of registration. It is quite probable that permanent registration will be adopted within a few years, but the present system, except in a few details, will hardly be changed.

## MUNICIPAL ELECTIONS IN 1925

BY ARTHUR MACMAHON

*Columbia University*

*Results of elections in all cities of 250,000 population or more.*

A SUMMARY of results in the twenty-one cities of 250,000 or over in which municipal elections took place in 1925<sup>1</sup> will reveal situations of interest, but hardly tendencies. A bare news statement that the last municipal elections in England yielded Labor a net gain of 135 council seats carries at least an implication regarding the general social forces and social policies which were involved. In the United States, although the division of the local integrations that bear the names of the so-called national parties doubtless often coincides with deep-cutting social cleavages, this alignment is certainly not consistent from city to city and section to section. Any attempt to plot general trends in local politics in terms of party labels, furthermore, would be embarrassed by the non-partisan system of elections which—with minor variations of form and complete divergencies in the spirit of its operation—exists in as many as fifteen of the twenty-one cities under

consideration. The forms of government themselves differ; thirteen of the cities use types of mayor-and-council organization; five are built on the commission pattern; three (not including Rochester) upon the manager plan.

### NEW YORK

New York City—facing the election of a mayor, comptroller, and president of the board of aldermen for the city as a whole, five borough presidents (who are the other members of the crucial board of estimate) and sixty-five aldermen by wards, as well as several officers in each of the five vestigial counties and sundry judges—created a situation which for some months was swollen with interest but which was neatly pricked by the time of the September primaries. The election itself was quite flat. Everything came to center in the elimination of Mayor Hylan. The successful strategy of the Democratic leaders was prepared and all but finished for them by the tendency of the critics of Democratic domination to localize their attacks on the Democratic régime since 1918 in the mayor personally and in his immediate coterie. All that was necessary was to encourage this impression and then to amputate Hylan,

<sup>1</sup> The cities are treated here in the descending order of size based on their estimated population of 1924-25. Unless otherwise stated, the votes cited are those officially given by boards of canvassers, city clerks, etc. Except where expressly noted to the contrary, the date of the election referred to was November 3, 1925.

leaving the city in Democratic hands but a glow of victory in Republican and reform circles. The thing was not without difficulties and dangers. It involved—or at least seemed to involve<sup>2</sup>—a sectional conflict within the Democratic party. There were, of course, valid reasons for Tammany's break with Hylan, apart from the tactical advantage to be gained by disclaiming responsibility for a figure-head who was the more open to attack because of the extraordinary personal advertising he had received. The mayor's affiliations with Hearst were fraught with the dangers of divided allegiance and were especially obnoxious to Governor Smith. Influential elements in the party were anxious to break the impasse in which the mayor's attitude was placing his party in such matters as the development of rapid transit facilities. Not the least reason was the desire of Tammany Hall to re-assert its threatened hegemony. Party organization in New York city since consolidation has been federal at the best and often only confederate; the survival of the counties and the establishment of coterminous boroughs—with county and borough elections and patronage—have bolstered the autonomy of the separate borough organizations in each of the parties. Tammany Hall, proper, has continued to have its base

in New York county (Manhattan), with the Bronx as an appendage and assured ally, but the political center of gravity has been shifting with the spread of population. The shelving of Hylan thus appeared finally as a conflict of boroughs. His re-nomination was supported by the leaders of Brooklyn (Kings county)—Hylan's home borough—and Queens and Richmond, representing together a Democratic enrollment of 394,524; he was opposed by the New York county leader, Mr. Olvany of Tammany Hall, and by the leader of the Bronx, representing together a Democratic enrollment of 400,127.

On September 15 two slates of candidates for the city-wide officers, named in fact by the rival groups of leaders though in form designated by petition, were submitted to the arbitrament of the direct primary. Hylan was defeated for re-nomination by James J. Walker, Democratic floor leader in the state senate. His vote throughout the city was 154,035 to Walker's 249,579, the combined total being 50.7 per cent of the Democratic enrollment. Hylan was ahead in two boroughs only; he carried Queens by 31,627 to 28,266 and Richmond by 12,197 to 6,256. Brooklyn he lost by 60,959 to 65,484, carrying twelve of twenty-five districts; and he was defeated in the Bronx by 21,311 to 45,877 and overwhelmed in Manhattan by 27,942 to 103,596. The county leaders at once resolved their differences. Hylan's damaged prestige and self-confidence hardly left him in a position to run independently. Meanwhile, the chances of Republican participation in a fusion movement—coldly viewed under any circumstances by such Republican chieftains as the leader of Kings and predicated on the re-nomination of Hylan—completely collapsed. The search for a nominee

<sup>2</sup> A still obscure phase of the matter is the question of the seriousness and good faith of the support given to Hylan by leaders like McCoey, high in the official councils of the party. Did they seem to support him only to be able to lead him into the primary and thus to prevent what might have been a fatal bolt on his part? Certainly Hylan's vote-getting power was feared until he was finally eliminated. His administration was in large part an affair of the regular district leaders and they, if the matter had been theirs to settle, would probably have favored continuance of the *status quo*.

settled at last on Frank D. Waterman, manufacturer of a well-known pen and quite without experience in politics except as chairman of a businessman's committee to agitate for immediate subway construction. The selection was confirmed in a perfunctory primary contest on September 15, in which Waterman received 113,682 against 16,758 for former Secretary of State Lyons and 4,492 for W. M. Bennett. The campaign itself found the business community seemingly complacent, Republican funds slow in coming, the press almost indifferent. In a total vote of 1,142,204 marked and valid ballots, Walker received 748,687; Waterman, 346,564; and Norman Thomas, the Socialist nominee, 39,671. The Democratic candidate carried all but two of the sixty-two assembly districts in the city—the fifteenth in the Park Avenue and Central Park residential zone of Manhattan and the twenty-first in Brooklyn. Yet Democratic preponderance and Republican weakness, measured in terms of percentages of the total vote for mayor, were not more pronounced than in the preceding municipal election in 1921. Hylan had then received 63.9 per cent of the total, whereas Walker received 65.5; the Republican nominee in 1921 had received 28.4 per cent, Waterman received 30.0 per cent. The Socialist vote showed the greatest relative change, its percentage in the total being 7.0 in 1921, 3.5 in 1925. The extent of the Democratic preponderance was revealed, however, in the fact that they swept every city, county, borough and judicial office, except three of sixty-five district members of the board of aldermen.

#### CHICAGO

Interest in municipal elections in Chicago in 1925 centered largely in the submission of the question of

municipal ownership on April 2 in what was undoubtedly the most important local referendum of the year.<sup>3</sup> No striking changes marked the choice of fifty aldermen by wards under the formally non-partisan election method applied to the city council of Chicago in 1919<sup>4</sup> and first used there in 1921. At the general aldermanic election on February 24, 194 candidates were on the ballot.<sup>5</sup> In six of the fifty wards there was only one candidate (the well-known John J. Coughlin in the first being among those unopposed), and in ten other districts only two names appeared; but in sixteen wards there were five or more, and in three of these there were eight, nine and ten candidates respectively. Nevertheless, as many as thirty-six received a majority on February 24 and were

<sup>3</sup> The ordinance, passed by the council on February 27 by a vote of 40 to 5, provided both for the acquisition of existing transportation facilities and for municipal construction. With it was submitted separately the question whether the city—through the municipal railway board to be established under the ordinance—should operate the properties. The ordinance itself was defeated by 227,083 to 333,759 (the total vote being 52.8 per cent of the registration as of February 7); the question of public operation was negatived by a vote of 225,406 to 333,190. Such considerations as the fact that the Chicago Federation of Labor voted disapproval of the ordinance at its meeting on March 15 warns the observer against interpreting the adverse popular vote as being necessarily against municipal ownership in the abstract, apart from the particular arrangements for purchase and financing.

<sup>4</sup> Laws of Ill. 1919, p. 269, adopted by the city at an election held November 5, 1919. Candidates for aldermen are nominated by petitions signed by legal voters to the number of not less than 2 per cent nor more than 5 per cent of all the votes for aldermen in the ward in the preceding election.

<sup>5</sup> On February 24 seven propositions for bond issues, aggregating \$13,525,000, were submitted and approved by substantial margins.

forthwith elected, leaving only fourteen places to be filled at the so-called supplementary aldermanic election on April 7 from the two highest candidates in each case. In general, the Thompson faction was said to have fared badly. On the other hand, the defeat of the proposal for the municipalization of transportation, so warmly pressed by Mayor Dever, was thought by some to indicate a possible weakening of the mayor's hold upon his own following.

#### DETROIT

Detroit elected a mayor, nine councilmen at large, a city clerk, city treasurer, forty-four constables in half as many wards, and voted on six propositions.<sup>6</sup> A lively, widely-noted contest was stimulated by the opposition of the Ku Klux Klan to the re-election of Mayor John W. Smith and certain members of the council. The Klan alleged failure to control vice,<sup>7</sup> but it was said that the organization, which drew help from outside, hoped to make the election a demonstration of power before the country. Mayor Smith based his campaign on an appeal against the Klan. He was re-elected over Charles Bowles by a vote of 121,206 to 111,076, with 64.7 per cent of the registered voters participating, compared with 90.6 per cent in the preceding year. Despite the

<sup>6</sup> All six measures received a majority of the votes cast thereon; the most important being an amendment to the municipal court act, with 100,825 in favor and 100,823 opposed, and a rapid transit proposal, approved by 141,991 to 51,332. The total vote on the latter was 75.5 per cent of the number voting in the election. It facilitates further study by the Rapid Transit Commission of a comprehensive scheme.

<sup>7</sup> Irregular methods in certain departments, rather than ineffective dealing with vice and crime, were the findings of a grand jury inquiry, made public on April 25, 1925.

mayor's personal victory, of the nine councilmen elected four were endorsed by the Klan and two opposed by it, whereas, of the nine defeated candidates, seven were disapproved and only one favored by the Klan. It should be added, however, that eight of the nine successful candidates—including the four elected with Klan endorsement—had received the recommendation of the Citizens' League before the Klan's lists were published. Detroit's election machinery is non-partisan in form.

#### CLEVELAND

Proportional representation received a second application in Cleveland, having saved itself by a hair in the special charter amendment election on August 11.<sup>8</sup> In all, 114 candidates entered the race for the twenty-five seats in the council. With two exceptions, those who were finally chosen after numerous counts and transfers would have been elected if only the first choice votes had been considered.<sup>9</sup>

<sup>8</sup> The vote in favor of the initiative amendment proposing repeal of the proportional representation feature of the charter was 20,353; the vote against it, 20,918—the total being only 41.3 per cent of the far from heavy vote cast for councilmen in the November election.

<sup>9</sup> In the first district, with seven to be elected, with forty-three candidates and with a quota of 3,691, thirty-seven counts were made, Peter Witt and S. Mitchell being first and second, respectively, both on first choices and at the end, but those who stood seventh and eighth on the first choices moved into third and fourth places, and the candidate who stood sixth at the beginning was eliminated. In the second district, with five to be elected, twenty-eight candidates and a quota of 3,267, twenty-three counts were made, resulting only in changes in the relative standing of the five original leaders. In the third district, with six to be elected, with eighteen candidates, and with a quota of 2,854, there were fourteen counts, resulting again only in changes in the final order of those who stood fourth, fifth and sixth in number of first choice

All but three of the members of the previous council were re-elected. The previous division of the council remains unchanged; fifteen are Republicans, six are Democrats, four are Independents. Observers who are meditating on the development of the manager plan of city government have found cause to speculate regarding the significance of the extent to which the idea of "supporting the manager" (Mr. Hopkins) was the slogan of the councilmanic candidates.

#### ST. LOUIS

The municipal election in St. Louis on April 7 was partisan in form as well as substance. The Republican slate was again successful. The Republican candidate for mayor, V. J. Miller, received 120,352 votes, against 117,223 for his Democratic opponent, W. L. Igoe, and 951 for the Socialist candidate. In addition, the Republican organization captured the office of comptroller and every one of the fourteen places in the board of aldermen which, under the scheme of partial renewal in combination with a compromise between election-at-large and the ward system, were filled by a city-wide vote on candidates standing individually for the odd-numbered wards. Despite the continuance of Republican control, the Democratic strength showed a slight relative increase compared with the municipal election in 1921; the Democratic percentage of the total vote for mayor, which had then been 46.6 per cent, rose to 49.1 in 1925. An initiative firemen's salary ordinance was approved by 143,245 to 55,313, the total

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votes. In the fourth district, with seven to be elected, twenty-five candidates and a quota of 3,820, the man who was originally eighth was moved by the transferred votes into sixth place, displacing the candidate who stood seventh on first choice.

for and against being 83.2 per cent of the vote for mayor. A charter amendment was also approved, but by a somewhat lesser vote.

#### BOSTON

Boston returned to the ward system in 1924, but clings to the scheme of a theoretically non-partisan election without a primary and without preferential voting. A factional schism in the Democratic party made possible the election of the first Republican who has been mayor since the 1909 charter was adopted. Ten candidates for mayor appeared on the ballot.<sup>10</sup> One of the outstanding Democratic leaders J. M. Curley—the outgoing mayor—used his influence in behalf of his fire commissioner, T. A. Glynn. The other prominent leader, Martin M. Lomasney, threw his weight behind former Congressman J. H. O'Neil. Malcolm E. Nichols (who resigned as collector of internal revenue to enter the contest) had the support of the Republican organization and the endorsement of the Good Government Association. Glynn and O'Neil together received 74,575 votes; Nichols only 64,492—35.4 per cent of the total. Of those who participated in the election, 10,904 failed altogether to vote for a councilman. Altogether, 113 candidates were in the field in the twenty-two wards. The newly elected members were said to comprise thirteen Democrats and nine Republicans.

<sup>10</sup> The votes received by the ten candidates were: M. E. Nichols (collector of internal revenue), 64,492; T. A. Glynn (fire commissioner), 42,687; J. H. O'Neil (banker, former congressman), 31,888; D. H. Coakley (disbarred attorney), 20,144; T. C. O'Brien (district attorney), 9,448; J. A. Keliher (sheriff of Suffolk county), 7,737; W. T. A. Fitzgerald (register of probate), 3,188; A. B. Cook (state auditor), 1,771; W. G. McGauley (a dentist), 437; C. L. Burrill (a member of the governor's council), 276.

## LOS ANGELES

Los Angeles elected a mayor, comptroller, councilmen in fifteen wards, and members of a board of education under its new charter which, as in Boston, restores the ward system. At the non-partisan primary on May 5, G. E. Cryer received 82,232 votes for mayor, as against 67,644 for B. F. Bledsoe, 9,515 for M. S. Gregory, 217 for R. L. Knapp, 392 for E. McKee, and 341 for C. J. Rindler. Mr. Cryer, having a majority, was forthwith elected in accordance with a provision of the charter; three councilmen were similarly elected, and there was no contest at all for the office of city attorney. Not unnaturally, lessened interest was shown in the general municipal election on June 20. Whereas 42.7 per cent of the number who were registered voted in the primary, the participation in the election itself was only 30.8 per cent. The mood of the electorate was prevailingly affirmative. An initiative ordinance and a bond issue were approved by large majorities at the primary; and at the general election the voters approved all of five additional bond issues aggregating \$11,350,000, and also a referred ordinance and the proposal that the legislature be urged to authorize the union of municipalities in Southern California to obtain water from the Colorado River—nine propositions in all.<sup>11</sup>

## PITTSBURGH

Pittsburgh's election was partisan in method and spirit, although so over-

<sup>11</sup> Two of the bond issues, aggregating \$10,000,000, contemplated additional water supplies from the Owens River and the Colorado River. Another, for \$500,000, authorized the acquisition of property for branch libraries, etc.; and still another, for \$700,000, authorized the acquisition and donation of certain property to the University of California.

whelmingly Republican that it is mockery to speak of a two-party system in such a connection.<sup>12</sup> The Republican nominee for mayor, Judge Charles H. Kline of the common pleas court, received 75 per cent of the total vote, although there were seven candidates on the ballot.<sup>13</sup> Only 5.9 per cent of the vote went to the Democratic nominee, who indeed was outstripped two to one by W. L. Smith (a principal of a local high school) running on a "non-partisan" ticket. In the election of the five members of the city council the Republican candidates received in all 329,371 votes; the Democratic, 31,500; Non-Partisan, 23,500; Labor, 17,491; Prohibition, 8,566; Socialist, 3,870.<sup>14</sup>

## SAN FRANCISCO

San Francisco, in accordance with the provision for the partial renewal of its government every two years, chose nine of the eighteen supervisors, a recorder, and certain minor officers. Members of the previous administration who ran for re-election seem to have fared badly and, of the incumbents, only the recorder was successful. The reason for this reaction probably

<sup>12</sup> Regarding the election in Philadelphia in 1925 for district attorney and judges of the Municipal Court, see A. F. MacDonald, "Philadelphia's Political Machine in Action," *NATIONAL MUNICIPAL REVIEW*, January, 1926, Vol. 15, pp. 28-35.

<sup>13</sup> The vote for mayor was: Republican, 68,469; Non-Partisan, 10,745; Democratic, 5,342; Prohibition, 4,465; Labor, 1,362; Independent Citizens, 166.

<sup>14</sup> The local radical vote presented some variations of interest; trifling in the vote for mayor, it was larger in the total vote for councilmanic candidates, and here the Labor Party vote, although only 5.9 per cent of the Democratic total, was five times that of the Socialist candidates. In the election of sheriff in Allegheny County (which contains Pittsburgh), the Labor Party vote exceeded the Democratic vote.

lay in part in the disapproval felt regarding an agreement by which a private company was to participate in the distribution and sale of electric power produced in connection with the municipal water-supply system. In the election of supervisors, victory was in general with a slate brought forward on a platform that attacked the proposed arrangement. In all, there were thirty-five candidates on the ballot for the nine positions as supervisor. An initiative ordinance calling for the purchase of the properties of the Market Street Railway Company was defeated by 12,435 to 87,315.

#### BUFFALO

Buffalo is the largest of the commission government cities and the only city in New York state, incidentally, which in the past has had non-partisan election machinery. Mayor Frank X. Schwab was re-elected against a candidate who was supposed to have Klan support. Schwab's vote—the largest received by any candidate since the establishment of the commission plan in 1914—was 77,708, against 55,441 for Ross Graves, who had been commissioner of finance for six years. Schwab's momentum, furthermore, seemed to be influential in the election of the two other members of the commission.<sup>15</sup>

#### NEWARK

In Newark, N. J., another commission plan municipality, the voting on May 12 resulted in the upset of one of the long-standing city bosses of the Democratic party in the East, James

<sup>15</sup> In the election of the councilman for a four-year term, J. P. Moore received 64,881; Frederick Becker, 62,448; with 12,118 blanks. In the election of councilman for the two-year term, J. J. Love received 63,676; G. C. Andrews, 61,687; with 14,084 blanks. Mayor Schwab died in March last.

R. Nugent. In a field of sixteen candidates, four of the members of the council were re-elected, but Nugent—a member of the council—was nosed out for the fifth place.<sup>16</sup> In June, Nugent was succeeded as Democratic leader of Essex County by S. I. Kessler, the executive committee being reconstructed to include representatives of the Gillen, Brennan and Nugent factions.

#### MINNEAPOLIS

Minneapolis has been unique among our great cities in presenting not only intensively active local labor politics but even a labor majority in the council since 1923, when the combined Farmer-Labor and Socialist forces secured fourteen of the twenty-six seats in the board of aldermen. In the general municipal election on June 8, however, only two of the seven labor members who ran for re-election managed to survive.<sup>17</sup> The new council consists of seventeen conservatives and nine radicals. The causes of the reversal are numerous and partly obscure. The conservative forces got out their vote; the vote of the labor

<sup>16</sup> The total number of ballots was 76,265. The vote for the leaders was: W. J. Brennan, 42,663; T. L. Raymond, 39,654; J. Howe, 38,477; and C. P. Gillen, 35,382—all re-elected commissioners; J. F. Murray, Jr. (former police judge), 35,827, defeating Commissioner J. R. Nugent, 32,374, and Mayor F. C. Breidenbach, 29,846, and nine others.

<sup>17</sup> Socialist (T. E. Jenson) in the twelfth ward, and a Farmer-Laborite (J. Peterson) in the sixth. The former radical majority, fourteen, was half Socialist, and half Labor. The group in the new council consists of five Socialists and four Laborites. In 1923, in addition to half the councilmen and the mayor, the city treasurer, comptroller, judge of the municipal court, member of board of estimate and taxation, school director and library directors were also elected. The election machinery is non-partisan in form.

wards, it was said, was down 15,000. A contributing factor to this slump was perhaps the fact that labor did not have a candidate for mayor either in the May primary or in the general election; Mayor G. E. Leach, re-elected with a vote of 53,622, was said to be hardly more conservative than his opponent, J. T. Elwell, a Citizens' Alliance man, who polled 44,989. Other causes were deeper. The railroad organizations had lacked driving power since the collapse of the trainmen's strike. Communism, so-called, had been strong in the Trades and Labor Assembly, and the attack on it had left factionalism and friction. The *Daily Star*, which had passed from co-operative management into the control of Thomas Van Lear (formerly of the Machinists Union, and Labor mayor of Minneapolis between 1916 and 1920), attacked even the Farmer-Labor members of the council who were running for re-election, on the ground that they had voted with the Socialists in the council.

#### NEW ORLEANS

The primaries in New Orleans on February 3 were sharply contested between the Behrman, Maloney and McShane factions. The primary vote was Behrman, 35,813; Maloney, 33,406; and McShane, 4,484. Maloney subsequently withdrew, leaving Behrman—who had been mayor for many years and prominently identified with one of the notable machines of Southern politics—unopposed in the general election on April 6.<sup>18</sup> A series of compromises and several substitutions had by this time practically reduced the candidates to one for each position, and the election itself was a mere formality, in which the total vote was barely half that in the primary. In

addition to the mayor and four members of the commission-council, eleven parochial officers were elected. The successful ticket received 34,008 votes; the defeated Republican slate, 2,266.

#### CINCINNATI

Cincinnati's election under its new city-manager charter was especially interesting because it also has proportional representation: 119,482 valid ballots were cast—more than in the bigger city of Cleveland—with only about 3.5 per cent of the total invalid or unmarked.<sup>19</sup> Two of the candidates, Murray Seasongood, Republican, and E. T. Dixon, Democrat, reached the quota on first-choices. The selection seems favorable to a fair trial of the new charter. Of the nine councilmen chosen, six—four Republicans and two Democrats—are said to have been members of the committee that promoted the new charter. The other three councilmen are adherents of the Republican "organization" in Hamilton County led by R. K. Hynicka. Murray Seasongood, who originally began the fight that led to the charter, was elected by his colleagues as mayor, after caucusing by the six pro-charter members. Subsequently Colonel C. O. Sherrill—a graduate of West Point in 1901, an engineer, chief of staff of the 77th Division, A. E. F., and lately director of public buildings and parks in the District of Columbia—was chosen by the council as the first city manager.

#### KANSAS CITY

In Kansas City, on the other hand, the election of the council of nine members under the brand new charter proceeded along essentially partisan lines, despite the scheme of a non-

<sup>18</sup> Perhaps because of returning confidence, bond issues for upwards of six millions of dollars were approved.

<sup>19</sup> Mayor Behrman died later in the year.

partisan primary.<sup>20</sup> Albert I. Beach, Republican, was re-elected mayor by a hair over Ben Jaudon, Democrat, at present city treasurer, but five Democrats were elected to the council. They have announced a frankly partisan policy. H. F. McElroy, a Democrat and a party man, has been chosen city manager. At the election on November 3 only two of twenty-five bond issue propositions were adopted.

#### INDIANAPOLIS

In Indianapolis, after a campaign marked by bitterness but with a diminished total vote, the Republicans regained control. J. R. Duvall, who was said to have the support of the Ku Klux Klan both in the Republican primaries and in the general election, was chosen for mayor over W. Myers, Democrat, by a plurality unofficially set at 8,991. Indianapolis, seemingly, was the only city of over 250,000 population in which the Ku Klux Klan, being an issue, did not meet defeat or at least fail to win an outright victory in the municipal elections of 1925.

#### ROCHESTER

Rochester, N. Y.—apart from the adoption of the proposed city-manager charter to take effect January, 1928<sup>21</sup>

<sup>20</sup> The new charter of Kansas City was adopted on February 24 by 37,504 to 8,827—the total vote being about 40 per cent of those who subsequently voted for mayor in November. The new plan goes into effect April 10, 1926. The mayor is a member of the council of nine, which chooses the manager. Cf. Walter Matscheck, "Kansas City Adopts the Manager Plan," NATIONAL MUNICIPAL REVIEW, April, 1925, Vol. 14, pp. 207-8. The same writer, in private correspondence since the election, remarked: "The interesting experiment is: Can the city-manager plan of government be successful, particularly in a large city, where the council is definitely and avowedly partisan?"

—drew interest from the victory of Mayor Clarence D. Van Zandt over what remains of the old Aldridge machine in Monroe county, now led by James L. Hotchkiss. Van Zandt was in his second term as mayor, but was denied a regular re-nomination by the Republican organization. He won in an open fight in the direct primary, however; and, although running a little behind his ticket, was elected by 46,729 to 41,981 for Leroy E. Snyder, the vigorous Democratic nominee, and 3,544 for the Socialist candidate.

#### SEATTLE

Seattle's municipal election on March 10 was remarkable only in the fact that the city-manager plan there met its outstanding rejection of the year.<sup>22</sup> Three members of the commission-council were elected, and it

<sup>21</sup> The charter was passed on July 28 as a "local law" under the recent constitutional home rule grant. It provides for a council of nine—of whom five are elected at large and four from as many single-member districts—with partial renewal of the council and a system of non-partisan primaries and elections. The council chooses a titular mayor and a city manager. The total vote on the proposed charter was 70.3 per cent of the vote for mayor in the same election. It was adopted by 39,029 to 25,903, with 31,654 ballots unmarked on the question. The validity of the home rule charter is being tested in a taxpayer's action initiated in the courts in February, 1926. The attack is general but centers especially in the provision for non-partisan elections.

<sup>22</sup> The proposed charter, submitted through an initiative petition, was lost by 22,789 to 27,308, with 88.5 per cent of those voting for councilmen recorded. See M. H. Van Nuys, "Seattle's Vote Against the City Manager Plan," NATIONAL MUNICIPAL REVIEW, June, 1925, Vol. 14, pp. 340-9. On March 9, 1926, the city manager plan was seemingly defeated again by 36,605 to 36,709 in an election otherwise notable because a woman—Mrs. Bertha K. Landes, already a member of the council—was elected mayor.

was noted that, while the direct vote went against the adoption of the new form of government, the successful candidates had announced themselves in favor of the change.

#### JERSEY CITY

No surprise attended the happening of the inevitable and the expected in Jersey City on May 12, although the event has borrowed interest from the election of Commissioner Moore as governor of New Jersey on the Democratic ticket a few months later. Mayor Frank Hague, who is commonly reckoned as one of the three outstanding "urban bosses" in the Northern wing of the Democratic party and who is certainly the outstanding example of the local "boss in office," was re-elected overwhelmingly with the other members of the commission-council against a recognized, although not formally labelled Republican slate.<sup>23</sup>

<sup>23</sup> The vote of the five re-elected as given in the official summary was: Commissioner of revenue and finance, A. Harry Moore, 70,883; Mayor Frank Hague, 69,305; director of public improvements, M. J. Fagen, 69,100; director of public safety, W. B. Quinn, 69,081; and director of parks and public buildings, J. Saul, 68,027. The five defeated candidates polled between 10,304 and 10,774 votes. The total vote in the election was 73.1 per cent of the number registered, 114,110.

#### TOLEDO

The election machinery of Toledo is theoretically non-partisan, but local party organizations were again active in behalf of particular candidates. F. J. Mery was re-elected mayor, having the support of the Republican organization and receiving 28,807 votes, against 19,941 for A. C. Jones, an independent Republican, and 10,751 for T. C. Devine, backed by the Socialist party. It was said that the Republican party had candidates for council in practically every one of the twenty wards and that about three-fourths of the successful nominees were from that party. Two tax levies were approved, but, of the eighteen bond issue propositions, twelve were negatived.

#### LOUISVILLE

The choice of city officers in Louisville was complicated by the issue of the Klan. Within two days of the election, the Democratic candidate for mayor, W. T. Baker, was withdrawn in the face of the Republican challenge to disprove Klan affiliation. A candidate with a disarmingly Celtic name—W. T. O'Neal, formerly judge of the state court of appeals—was offered instead by the Democrats by means of stickers pasted on the ballots. A. A. Will, the Republican nominee, was elected in a close vote.

## RECENT BOOKS REVIEWED

**LEGISLATIVE ASSEMBLIES.** By Robert Luce. Boston and New York: Houghton Mifflin Company, 1924. Pp. vi + 691.

This is the second volume in a series of four, in which the author proposes to treat historically, descriptively and critically the legislative branch of the government in all its different aspects. The first volume was devoted to Legislative Procedure, and the next two volumes will deal with Legislative Principles and Legislative Problems respectively. The present work has twenty-five chapters dealing with such topics as "two chambers or one," "length of terms," "election and qualification," "quality, past and present," "rotation in office," "the lobby," "bribery," "contempt," and "decorum."

The volume is a veritable storehouse of information, replete with historical allusions, interesting illustrations, examples and anecdotes, and written in an informal, readable style. One can find interesting material by picking up the volume and reading at random. It lacks in penetrating analysis and in scientific organization, but no one wishing to be familiar with the legislative process can afford to ignore it. One gets an intimate insight into many aspects of legislative activity that is not available in any other book.

While it is impossible to survey the contents of the volume within the limits of a review, there are chapters that deserve special mention. The one on "the lobby" is extremely interesting and useful. All the various aspects of the problem are discussed. The development of the common law doctrines, the history of legislation dealing with it, the development of its various manifestations and practices, and the various theories and proposed remedies have all received attention. The discussion is conducted from a broad and intelligent background and in a manner that is quite illuminating.

Many readers will find special interest in the chapter on "quality past and present." The author has summoned witnesses of the highest credibility from every period in our history to prove the legislators of each period were unworthy of public confidence and esteem. Reaching the lowest depths of legislative incompetence seems to have been the peculiar prerogative of

each decade. While no effort has been made to devise a method by which the relative ability of the legislators of each period might be objectively determined, there is considerable basis for the author's argument that the average quality of legislators has steadily improved.

The chapter on "contempt" is an excellent contribution to the literature of the subject. It is to be hoped that nothing happens to prevent the author from completing the series of which this volume forms a part, for they will fill a wide gap in the literature of our government.

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**COUNTY GOVERNMENT AND ADMINISTRATION IN IOWA,** Vol. IV in the Iowa Applied History Series. Benjamin F. Shanbaugh, Editor. Iowa City: The State Historical Society of Iowa, 1925. 716 pp.

This handsome and well-printed volume is, I think, the fourth book on county government to be published in 150 years, and adds an important two and one-fourth inches to the six-inch shelf of county government literature.

It is a comprehensive survey of county government throughout one state covering the law, the history and, what is most needed, the actual practice. Incidentally and with a disarming good nature and impersonality which is too little used by reformers, it proposes various specific and sweeping reforms.

It is a composite of the monographs of eight authors, and it seemed to me they varied rather widely in their success in gathering and adducing facts from the field as distinguished from facts from the law books in the library. So I soon found myself skipping arid sections of purely reference interest to find the pages wherein is produced fresh evidence of the specific actual working of county institutions and concrete suggestions for change. Altogether there is considerable of this fresh evidence, and very precious it is as an addition to the slender accumulation of such raw material.

As could have been confidently predicted, the survey finds in effect that county government in Iowa is countryified, reflecting the easy standards of primitive conditions, with much honesty, good

will and high intentions where corruption would have been easily feasible. The reforms proposed are primarily in the direction of modernization rather than of ousting graft. The boards of supervisors have a free and easy procedure that allows anyone to ramble in, join the discussion and crack a joke, but it is only suggested that they put upon a single employee the orderly handling of claims to avoid the errors, overlaps and chances for trickery that arise from the practice of auditing such claims by acclamation. The county auditor, it is proposed, should be made appointive instead of elective (right) and made purchasing agent and general supervising authority over county affairs (wrong, since he would then be the auditor of his own transactions). County treasurer's offices are in good shape, thanks partly to state supervision, but should be made appointive. So should the recorder and the clerk of the district court so as to tighten up the loose procedures that grow out of frequent senseless changes of personnel. County jails have an average of only five or six inmates and are unsatisfactory. Regional prisons maintained by the state are proposed, and it is suggested rather hopelessly that sheriffs could be appointed as wings of the state police. Coroners are found of as little value as elsewhere and their powers should be transferred to the county attorney. County poor relief is far behind modern standards as is shown by the fact that of 3,090 inmates of county homes, 1,285 are insane and are in many places not even segregated. Interest seems to be centered in making these places productive as well-run farms that will show a profit with aid of inmate labor. A policy of giving tramps a railroad ticket to the next county is disclosed. Highway administration is benefiting by the passing of township roads to the county and county roads to state supervision which has improved the engineering and eliminated much old-time favoritism in contracts. Public printing is political spoils, but the survey overlooked the opportunity to inquire as to what effect its distribution has on the political allegiance of newspaper editors. County accounting has benefited vastly by the oversight of a county accounting department in the state auditor's office which prescribes uniform systems. County health work is still small. Elections are needlessly expensive. Assessors are oversensitive to local pressure.

The composite remedy suggested proposes that the board of supervisors be given ap-

pointive power over auditor, treasurer, counsel and assessor; coroner to be consolidated with the county attorney; clerk of court made appointive by the judges; recorder consolidated with the auditor; superintendent of schools made appointive by a school board named by the supervisors; a civil service commission of three to be elective. These proposals manifest enough bold irreverence for sacred cows to lead one to wonder why no county executive was proposed as central feature of a new scheme.

A valuable and welcome contribution to a neglected field of political science, and one of several fine things to be credited to the vision of Mr. Shambaugh.

RICHARD S. CHILDS.

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#### EFFECTIVE REGULATION OF PUBLIC UTILITIES.

By John Bauer, Ph.D. New York: The Macmillan Company, 1925. Pp. viii+381.

Whether the reader agrees with the arguments and conclusions of the author or not, and very many readers will not, he must concede that the book is well written and distinctly different from nearly all other discussions of the subject.

The presentation of the author's views is unsupported by a single quotation from court opinion or other writer. In this respect the book is very unusual. It is a thoughtful presentation of ideas evidently conceived and developed while the author was engaged on the side of the public in utility regulation cases. It is entitled to a careful reading by all who have to do with public utility problems, because it is an elaboration of extreme views on the subject of regulation, many of them new ones, and is accompanied by a definite plan for much more rigid control than has ever been attempted.

It is impossible adequately to review this book in any brief article. The presentation of general principles, legal and ethical, which ought to govern public relations with the utilities is clear and fair and in only comparatively a few instances do they appear to have been stated in a spirit of partisanship.

After a discussion of the present unsatisfactory and unsettled condition of regulation, and of the difficulties facing the commissions in the attempt to fix rates for the vast number of utilities of different kinds, operating under greatly varying conditions, with rapidly shifting prices and great transitions in industrial organization, the author presents a plan for effective regulation in con-

siderable detail. In brief, the main points of this plan may be stated as follows:

*First.* Rate making is a legislative function. The courts have refrained from encroaching upon this prerogative, but have contented themselves by passing upon the question of confiscation. If rate making is a legislative function it extends to the policies, principles, processes and machinery. The legislatures, or commissions with adequate delegated powers, should determine the basis of valuation and the rate of return. Valuation is not a concern of the courts. We must rely on the legislatures for the desired progress, while the courts should clarify the limits of legislative action. The author contends that the legislatures should formulate definite principles of valuation, and provide methods for continuous rate control.

*Second.* The problem of establishing a definite rate base appears in connection with existing properties. There should be a distinction between existing and future investments.

*Third.* Existing properties should all be appraised, after specific principles of valuation are established, and a rate base established. The records and accounts should all be rewritten to this rate base which should not be changed in the future except as actual additions are made and as retirements of old property are made under strict accounting and engineering supervision of the commissions.

The chapter on court decisions on valuation is a most interesting analysis from the standpoint of a layman, of a number of leading cases. It is distinctly different and very readable.

The chapter entitled Investment, Reproduction Cost and Changing Price Level, takes the ground that the fundamental of effective regulation is a fixed and unchanging rate base and that original cost less depreciation, or "net investment," should be used as such base. The objections to reproduction at different price levels, a fluctuating base, are fully argued. One point, not frequently urged, is that the large majority of investors are bondholders, who have contracted for a limited return on a definite investment, or preferred stockholders, also obtaining a definite contractual return. It is argued that if cost of reproduction is to prevail it would be unreasonable to allow the increase on all the properties, where the common stockholders would reap all the benefit, and no part of the increase would go to bondholders or preferred stockholders. The plan proposed is to take the valuation, original

cost less depreciation, from this, deduct the face value of the bonds, ascertain the date of issuance of stock and increase the stockholders' investment by the percentage by which general prices have risen since the time of issuance of stock.

The chapter on depreciation argues for the establishment of depreciation reserves for all kinds and classes of property, for detailed and elaborate accounting, and for the deduction of the depreciation reserve from the original cost in the consideration of a rate base. This, however, is only in the few cases where the reserves represent the full depreciation. In the majority of cases the appraisal must be made and an estimate of depreciation, based on life tables and elapsed life, and this ratio applied to original cost. The "straight line" method is endorsed. Obsolescence must be found and taken account of.

By the time one finishes reading this chapter, and notes all the elements that go to make up deductible depreciation, one wonders whether the author finds any of the original cost remaining at all. The chapter is most interesting as being probably the most extreme presentation of the views indicated that has yet appeared.

Under the caption, Special Items in Valuation, Dr. Bauer advocates some novel theories. Land he would treat in the same manner as other physical property, appraising it at its cost, and not conceding to utility lands any appreciation as adjacent land values increase because they are limited to the special enterprise and not available for the uses which causes rise of value in other lands.

It is recognized that the development of the utility makes possible new uses which create new values, but it is held that the utility is merely a public convenience undertaken at joint expense, and to allow the utility to share in increases of value would impede and burden other enterprises.

In the discussion of intangibles, it is held that goodwill is excess earning capacity, and not entitled to inclusion in value; that past losses are legally inadmissible; that where expenditures have been made in creating business and securing customers such cost should be included as going value. The author recognizes proper overhead charges including contingencies and interest, and would amortize discount.

Dr. Bauer's discussion of present valuation methods and plea for less detail, less costly work and greater study of the property as a whole so that reasonable methods may be adopted, is most excellent.

The sections dealing with the rewriting of the accounts, and the readjustment of securities to conform to the proposed valuation present a group of arguments that are novel in the extreme, and distinctly original.

It is impossible to touch in a review upon all of the points made in this book. It is unique, advocating extreme views, presenting a plan that is novel and decidedly utopian. It places upon the utility commissions the burden of valuation of all properties, fixing a permanent rate base, controlling strictly all accounting, passing upon the propriety of all future expenditures of capital, supervising all construction of additions and betterments; in short it puts the commission in place of the management. The plan takes away all incentive to private capital to invest in stocks, and tends strongly to discourage the issue of stocks and to restrict sharply the return on stock that is issued. While not hinting at all at public ownership of all utilities, the author presents a plan which appears to the reviewer just as thoroughly to eliminate the owner and take away the incentive to individual initiative as any ownership scheme. It recognizes the bondholder whose contractual return is fixed, as the principal owner, and gives to the commission power which in reality is supreme, thus making the management a mere machine.

The author recognizes the difficult situation

created by politics, by constantly changing membership of commissions, and by the frequent appointment of men to membership on commissions whose training and background is not good, but these things, it is argued, may be changed by the passage of proper laws, and the selection of men who are properly qualified.

The reviewer does not agree with a great many of the arguments which are presented, but he fully recognizes the fact that there is a strong tendency on the part of many corporation officials to go so far in the other direction that conditions may become intolerable and bring about a repetition of the public clamor which existed between 1870 and 1890, a demand for relief so strong that it may be met in some such manner as is outlined in this book.

Whether one agrees with the book or not, one must admit that it is timely, and that it is well written. There is noticeable at times a tendency to repetition, possibly deliberately intended to emphasize certain arguments, but which does not add to the strength of the presentation. This book should not only challenge the attention of those who control the utilities to-day, but should help to bring about the modification or abandonment of some extreme and unsafe views.

HENRY E. RIGGS.

University of Michigan.

# PUBLIC UTILITIES

## INTRODUCING A NEW DEPARTMENT

EDITED BY JOHN BAUER

*Public Utility Consultant, New York City*

*The purpose of this new department is to discuss and promote the public aspects of the whole utility problem; to help establish a clearer economic and technical understanding of the industries involved and bring about more definite policies and methods of conserving the public interest. The department will be devoted to all public aspects of utility organization, operation and control. As to regulation, it will discuss principles and policies, causes of controversy, court decisions, legislative remedies, methods and machinery of control. It will constantly seek to bring out the essential facts, clarify the issues and consolidate sound public views for effective regulation. It will have no bias towards public ownership.*

*In most of these matters, there are honest differences in point of view. The department will endeavor to give sincere consideration to all disinterested and intelligent opinion. This is the only way by which progress can be made. :: :: :: :: :: ::*

This department has been established by the REVIEW in recognition of the increasing importance of public utility problems in present-day community life.

The life of any city to-day depends upon its public utilities. Most of these have been monopolized within any given community; or if not, they should be monopolized because this permits more economical and better service. Moreover, strong economic forces are rapidly bringing about in some of the utilities, notably electric light and power, a wider territorial organization and an extended field of monopoly, with still greater possibilities of economy and improved service.

In the case of the utilities we have not the usual protection that obtains in the less important services and commodities, viz.: competition among producers, and a choice between alternative services. We cannot even take or leave; for we are tied to the community economically and socially. We must take the services offered on terms on which we have no direct choice. Here we have the reasons for regulation, or for any other policy, that will protect the consumer and promote the general community interest.

### DISAPPOINTMENT IN REGULATION

About twenty years ago, the method of commission regulation emerged and was very rapidly adopted by the different states. It was generally assumed that a full-fledged solution

had been reached for conserving the public interest. Rates henceforth to be fixed by a duly constituted body, based on expert information, would be reasonable to consumers and bring a fair return to the companies. Also reasonable standards of service would be prescribed and enforced.

Unfortunately, these hopeful expectations have not been realized. Much more was needed than to charge the commissions with the general duty of dealing fairly with everybody, without exact formulation of principles and procedure. What is a fair return to the companies? And what are the precise constituents of reasonable rates? These questions, in turn, involve further queries as to exact determination of rates, as well as the relation of fair rates to proper standards of service. Without defining principles and methods, without fixing the exact rights of the investors and the public, rate regulation has inevitably become rate litigation, and extremely disappointing to its adherents of a generation ago.

### CLARIFICATION NECESSARY

Even before the war, it became clear to close students of the subject that effective regulation required the formulation of much more exact principles and methods than had been prescribed by the statutes; principles which would define precisely the rights of the investors and the reciprocal obligations of the consumers, and methods which would provide practical ma-

achinery by which these rights and obligations could be maintained. But during and since the war, the price levels and costs of operation have shifted so tremendously and other conditions have changed so materially, that the vague and cumbersome processes have resulted in the utmost confusion and to a large extent have caused a breakdown in regulation.

#### DUTY UPON PUBLIC OFFICIALS

In the face of this situation, public utility problems have not only piled up on the commissions struggling with the direct task of regulation, but have involved other public officials; especially municipal officers responsible for public welfare.

Legally, the regulatory function in most states rests with the commissions which are state agencies. But, practically, the municipal authorities who are nearer to the consumers bear the brunt of complaints against unsatisfactory conditions. The outcome, therefore, has been that city officials are more particularly confronted with the failure of regulation and with the responsibility of solving the problem from the public standpoint. They cannot escape their responsibility to the public, although technically the duty rests upon the legislatures and the commissions. To a large extent they must take the leadership for constructive measures, and go to the legislatures with remedial proposals. Unfortunately, however, the municipal authorities, for the most part, have not been adequately equipped to meet these responsibilities. They have not had the basic economic and technical training to grasp the issues completely; neither have they had sufficient continuity in office, nor close enough contact with the direct operating and financial facts of the companies to work out proper long-term policies in the interest of the public.

In spite of the important issues, there has thus been a remarkable failure to develop common public views and policies on the part of officials responsible to the consumers. Almost nothing has been done to develop common principles and united action in presenting the public side in actual controversies or in negotiations with the companies. The latter have learned to co-operate and to present a united front in all their relations with public authorities. The clear lesson is that the public, too, must learn to co-operate.

#### LACK OF NECESSARY DATA

One of the glaring gaps has been the lack of systematic data, regularly collected and analyzed and made available to public officials. This refers not only to the special operating and financial facts of particular companies, but to a wide range of more general information which applies to all communities and should be constantly available to local officials for intelligent action. The range of such needed data should include at least the following:

An analysis of commission and court decisions on various phases of valuation and rate-making; comparative valuations made by the different commissions; comparative construction and equipment costs incurred in different parts of the country; comparative operating costs in different cities; comparative rates charged by utilities in different cities; description of important improvements made in each utility; analysis of franchise developments and special operating arrangements in the various cities; analysis of results of utilities owned and operated publicly; collections of books, articles and special reports on all phases of public utility operation, rates, service, etc.

This gap—lack of comprehensive utility information—has been a special concern to the editor of this department for many years, and in collaboration with his associates in the American Public Utilities Bureau, he has worked out a Co-operative Public Utility Service, which will regularly collect and analyze all important data of general interest and make them available to the public. This service will be strictly mutual, furnished at actual cost to the subscribers, and will be especially safeguarded for the public through an Advisory Council consisting of public officials and others known for their interest in public affairs.

#### THE EDITOR'S VIEWS

The department editor will frankly state that on a number of basic issues he has become rather committed to particular views. But he realizes that his own opinions are not shared by all sincere students, and that critical reconsideration and re-analysis are necessary before a sufficiently sound public policy is established for successful united action.

The editor has presented some of his ideas in a number of articles published during the

past five years in the REVIEW.<sup>1</sup> They will be re-discussed from different angles. To a considerable extent, his views will be taken as the starting point for working out a public program which may finally be offered by the REVIEW to municipalities and other public bodies. But, there will be open-mindedness at all times. The sole guiding principle will be the *public interest*, and to that end all dogmatic preconceptions will be avoided and the truth scientifically sought.

#### SPECIAL UTILITY DEVELOPMENTS

Besides the discussion of policies and methods, the department will also present the more important utility developments. This will include technical changes which affect the public aspects of the industries; for example, giant power, huge hydro-electric projects, the progress of long distance electric transmission, extension of bus operation, etc. It will include also changes in financial structure and form of organization which have important public bearings, such as the tremendous progress in the holding company consolidations, consumer stock issues, non-par stocks, etc. It will be concerned with the public phases of all important developments and changes.

<sup>1</sup> These ideas have been more systematically elaborated under the title "Effective Regulation of Public Utilities," published June, 1925, by the Macmillan Company, New York.

#### IMPORTANT NEWS ITEMS

The department will also contain a news section, which will present important utility programs in the different cities. It will attempt to analyze new franchise provisions and the various special agreements or contracts with the companies, as well as important rate controversies. It will particularly keep contact with public ownership projects, with an effort to make a scientific evaluation of the results. As to such projects, it will maintain an unbiased point of view. In general, it does not accept the public ownership creed; nor oppose it. The editor believes that in many instances public ownership and operation furnish the only sensible course, while in others, because of franchise or financial conditions, or because of technological considerations and problems of management, public ownership would be uneconomical. Each case must be considered on its own merits.

For the sake of making the department as valuable as possible, public officials, students, and experts struggling with utility problems are invited and urged to contribute carefully considered ideas, and especially to present any important developments as to municipal programs, franchises, rate or service cases, projects, etc. In the next issue, the department will be prepared to begin its real function, and in the meanwhile will gladly receive all important utility items, including questions and special problems in which it may be of assistance.

# JUDICIAL DECISIONS

EDITED BY C. W. TOOKE

*Professor of Law, Georgetown University*

## STATE CONTROL OVER STREETS

Of the current decisions of the past few months, those relating to the control of streets and highways are of especial significance. State regulation of vehicular traffic in cities and villages, either directly or by rules promulgated by administrative commissions, is rapidly increasing. The enactment of such statutes generally is held to deprive the municipality of any power it may have had to regulate traffic by ordinance and to effect a repeal of existing ordinances covering the same field.<sup>1</sup> The few early decisions to the contrary were based upon the construction that the legislature had not intended to occupy this field by the enactment of statutes forbidding the municipalities from interfering with the free use of the streets.<sup>2</sup> The Oregon courts, which in the earlier decisions refused to follow the general rule on the ground that this sphere of the police power was reserved to the municipality under their constitutional charter-making powers, later abandoned this ground and decided that the Motor Vehicle Law of 1921, governed in all cases of conflict with the local ordinances.<sup>3</sup>

The tendency to hold that statutes which thus directly or indirectly cover this field of the exercise of the police power impliedly deprive the municipalities of any power of regulation may be noted in two recent decisions, one handed down by the supreme court of Illinois, October 28, 1925, the other by the supreme court of Indiana, December 10, 1925. In *Northern Trust Co. v. Chicago Ry. Co.* (149 N. E. 422) it was held that the Illinois Public Utilities Act of 1913, placing control and supervision over public utilities in the public utilities commission, impliedly deprived municipalities organized under the general Cities and Villages Act of any power to require

<sup>1</sup> *Ex parte Daniels* (1920), 183 Cal. 636, 192 Pac. 442; *City of Baraboo v. Dwyer* (1917), 166 Wis. 372, 165 N. W. 297; *Ex parte Wright* (1917), 82 Tex. Crim. Rep. 247, 199 S. W. 486.

<sup>2</sup> *Billingham v. Cisna* (1906), 44 Wash. 397, 87 Pac. 481; *Christensen v. Tate* (1910), 87 Neb. 848, 128 N. W. 622.

<sup>3</sup> *Kalich v. Knapp* (1914), 72 Ore. 588, 142 Pac. 504; *Dent v. Oregon City* (1923), 106 Ore. 122, 211 Pac. 909; *West v. Jaloff* (1925), 232 Pac. 642.

street railroads to equip their cars with brightly lighted headlights and that an ordinance to that effect was abrogated by the enactment of the utilities act.

In *Hoosier Mfg. Co. v. Berry* (149 N. E. 723), the supreme court of Indiana held that an ordinance of the city of Indianapolis, prohibiting motor vehicles to pass street cars at street intersections, regardless as to whether the street car was moving, was void as being in contravention of statutes which prescribed the rules and conditions upon which motor vehicles may pass street cars.

The basis of these decisions is the fundamental rule that the local police power is delegated and may be resumed at any time by the legislature, and that, even under the home-rule charters adopted by the authority of the state constitutions, this principle is modified only to the extent, as stated by the supreme court of California in *Ex parte Daniels*, that the legislature may not deprive the municipality of its local police powers except by itself stepping in and occupying the field.

## OHIO FAVORS HOME RULE

A striking exception to the general rule has been established by a series of decisions of the supreme court of Ohio, holding that under the constitution adopted in 1912, the power to establish, open, improve, maintain, and repair public streets and fully control the use of them is included within the term "power of local self-government." In *Lorain Street R. Co. v. Public Utilities Commission*,<sup>4</sup> this court reviews and reaffirms its previous decisions, holding that the control of the streets is in the municipalities, even to the extent of enacting any police regulations binding upon public utilities which may be exercising powers approved by the public service commission, so long as they do not unreasonably interfere with the efficiency of the public utility thus controlled.

The supreme court of Oklahoma in the recent case of *Westlake v. Cole*,<sup>5</sup> in which the question of

<sup>4</sup> 148 N. E. 577, decided June 9, 1925.

<sup>5</sup> 241 Pac. 809, Sept. 25, 1925; rehearing denied Dec. 1, 1925.

whether the defendant was guilty of negligence *per se* in violating an ordinance of the city of Enid, requiring a vehicle to come to a full stop before crossing a boulevard, in view of the statute of the state giving the right of way at intersecting streets to the car on the right and regulating the speed to fifteen miles an hour, held that the ordinance was valid without entering into the question of the conflict of the statute with the ordinance, evidently on the ground that the statute covered only a part of the field of regulation and that therefore the ordinance and the statute were not in conflict.

#### HOW RESTRICTIONS ON CITY'S POLICE POWER AFFECT STREET CONTROL

This rapidly growing development of legislative control over-intramural street traffic is no doubt justified by the phenomenal increase in vehicular traffic which calls for uniform regulations throughout the state. Its significance can be better appreciated, however, when we are brought to realize that there have already arisen many problems connected with the streets which, under the existing legal restrictions upon the exercise of the police power delegated to the cities, cannot be adequately handled except by recourse to the law-making power of the state itself. No municipality may of its own motion enlarge the domain of its delegated police power to meet new conditions, but there is a large field, recognized both by the state and federal courts, in which the hazy boundaries of the police power may be enlarged and defined by the state itself. This point may be illustrated by a brief reference to some recent adjudications upon the question of what constitutes a nuisance in the streets.

The recent decision of the court of appeals of New York in *McCoy v. Jordan*<sup>6</sup> deserves especial attention upon this point. The fundamental rule laid down a century ago in England that "the King's highway cannot be used as a stable yard"<sup>7</sup> has been one of the guiding principles in defining the rights of the public in streets and highways. Beginning with the leading case of *Callanan v. Gilman* in 1887<sup>8</sup> through a long line of decisions down to *People ex rel. Hofeller v. Buch* in 1921,<sup>9</sup> the New York courts have held that the public is entitled to the free and un-

obstructed use of the city streets and that any obstruction of them for private use interferes with public rights, constitutes a nuisance and may be removed at the suit of any interested person. In *Kahabka v. Schwab*,<sup>10</sup> the appellate division of the fourth department, decided in 1923, held that gasoline supply pumps in the streets were a nuisance *per se*, and that any resident taxpayer might maintain an action of mandamus to compel the officers of a city to abate the nuisance, notwithstanding an ordinance of the city of Buffalo authorizing their existence and their erection under licenses granted thereunder, the charter having given the city full and exclusive control over its streets and highways. This decision was unanimously affirmed by the court of appeals.

In *McCoy v. Jordan*, the charter of the village of Peekskill expressly conferred upon the village the power "to issue permits for placing tanks and containers for storage of gasoline . . . within the bounds of the highway and beneath the surface thereof and to permit arrangements for drawing therefrom upon the curb line of such street." In this instance a similar action was brought to require the village authorities to abate the nuisance, but the court held that the express grant of the specific power was a legislative declaration of state policy and in effect made that lawful which under the Buffalo ordinance, passed by virtue of a grant of plenary power to regulate the streets and highways, was a public nuisance.

The court expressly disclaims holding that the legislature could authorize similar encroachments in large cities where the obstruction to traffic would be serious, but maintains only that in the particular instance it has not exceeded its constitutional authority in diverting property held subject to a public trust to a private purpose. It would be difficult, however, to see how the two cases could be reconciled or how the court would find any ground for a different decision if the pumps were licensed by a city under a similar specific legislative authority, especially in view of the fact that the Home Rule provisions of Article XII of the state constitution, conferring upon cities the power to regulate the use of their streets, expressly provide that such ordinances shall not be inconsistent with the constitution and laws of the state.

<sup>6</sup> 241 N. Y. 71, 148 N. E. 793, decided July 15, 1925.

<sup>7</sup> *Rex v. Cross* (1812), 3 Camp. 229.

<sup>8</sup> 107 N. Y. 360, 14 N. E. 264.

<sup>9</sup> 230 N. Y. 608.

<sup>10</sup> 205 App. Div. 368, 199 N. Y. Supp. 551, affirmed 236 N. Y. 595, 142 N. E. 298.

## REMOVAL OF OBSTRUCTIONS

In the absence of express legislative authorization, there is no question that any obstruction in the streets erected for private business, even though ostensibly authorized by a municipal ordinance, is a nuisance which the city authorities may be compelled to abate at the suit of any resident taxpayer who can show special damage. That the plaintiff was unable to show such special damage was the ground for dismissing the action in *Lytle Inv. Co. v. Gilman* as mayor of Sioux City, decided by the supreme court of Iowa, December 15, 1925.<sup>11</sup> In this case, the gravamen of the complaint was that the erection of traffic regulators with display advertising on four sides which were operated by a company under contract with the city for free service in exchange for the advertising privileges, was a public nuisance which the city had no power to authorize. The court, in affirming the refusal of the lower court to grant an injunction, maintained that the city had the implied power to erect the towers for regulating traffic and that, while the addition of display advertising might be a nuisance, the plaintiff, as a mere taxpayer and abutting owner without proof of special damage, had no standing to maintain the action.

On the other hand, the supreme court of Washington in *Motoramp Garage Co. v. Tacoma*, decided November 27, 1925,<sup>12</sup> held that an abutting owner may maintain an action to enjoin the city from erecting a comfort station beneath the street adjoining his premises as imposing an additional servitude; and in another case, decided July 18, 1925,<sup>13</sup> the same court held that any resident taxpayer might prosecute a writ of mandate to compel the commissioners of the city of Walla Walla to abate as a public nuisance gasoline pumps erected along the curb within the street lines.

## BROADER CONTROL PROBABLE

The general principle that the declaration by the legislature of the general policy of the state may within certain limits enlarge or restrict the rights of the public or of private individuals in the use of property and that this is one of the functions of the police power, the exercise of which by the legislature is necessary to the public welfare, is fundamental, subject only to the

limitation that such declaration must not impose restrictions that are unreasonable.<sup>14</sup> Undoubtedly, within this sphere the legislature may define what is or is not a public nuisance in streets and highways, and, subject to the rule that private property may not be taken except by due process of law, it may assume the entire control over the streets of municipalities. A rapid extension of such legislative control in the interest of the public may be anticipated under existing traffic conditions, and may even involve a modification of the principles underlying the strict common law liability of cities and villages for the care of the streets, which now exists outside the New England states. No timely solution of the question of the authorization of continuous parking of vehicles which interferes with the movement of traffic and often with the abutter's right of access, for example, can be expected by the slow process of judicial decision; and as progress in the regulation of smoke nuisances, billboards, building lines, zoning and city planning has been assured only by state legislative action, so we must be prepared to look for the solution of many of our traffic problems in the same way.

## FEDERAL CONTROL IN THE FUTURE

In this connection a most striking phenomenon may be anticipated in the gradual development of federal control over all highways devoted to interstate transportation. A noteworthy case, exemplifying the federal power in this respect, to which our attention has been called, is *United States v. Babcock*, which was decided in the United States district court of Indiana July 13, 1925.<sup>15</sup> In this case the defendant was engaged in cutting a drainage ditch across the Lincoln Highway under a contract with the county of Allen, which had made no provision for a restoration of the highway except by a clause in the contract requiring the defendant to erect a temporary wooden bridge so that traffic would not be impeded during construction. The defense maintained that the court was without jurisdiction, that the highway in question was part of the Indiana highway system and that the money paid toward its construction was a voluntary contribution by the federal government. The court in granting the injunction, brushed aside the contention of the defendant on

<sup>11</sup> 206 N. W. 108.

<sup>12</sup> 241 Pac. 16.

<sup>13</sup> *State ex rel. Reynolds v. Hill*, 237 Pac. 1004.

<sup>14</sup> *Sawyer v. Davis* (1884), 136 Mass. 239; *Crossman v. Galveston* (1923), 112 Tex. 303, 247 S. W. 810.

<sup>15</sup> 6 Fed. Rep. 2nd Series 160.

the ground that the only basis of federal aid was under the commerce and post-road clauses of the constitution and that the acceptance of federal aid by the state was an acknowledgment of that fact. As the supreme court, in *In re Debs*<sup>16</sup> asserted that it is competent for the federal government to remove all obstructions upon highways, natural or artificial, to the passage of interstate commerce or the carrying of the mail, and has firmly established its regulatory power over railways as well as waterways, a power which lay dormant so long that the right to exercise it was thought by many to be absent, so we may look forward to federal legislation within the next decade to cope with some of the problems of control of the great arterial highways which the states, acting separately, may be unable to solve.

Of the power of the federal government to enter this field, there can be no question; its exercise can be postponed only by an efficient enforcement by the state of general regulations that will better insure the safety of the public and the control of the use of the highways in the interest of the public safety and of good government. While we may despise this tendency as an additional invasion by the state into the domain of "home rule" which we would reserve for our cities, a casual survey of the decisions of the courts will convince one that our local governmental machinery is not, and cannot be made, adequate to curb many of the evils resulting from the ever increasing and inevitable centralization of our social and economical life.

#### BRIEF NOTES ON RECENT DECISIONS

**Torts—Parks.**—In *Warden v. City of Grafton* (W. Va.), 128 S. E. 375, the city is held liable for injuries to a child whose hand was lacerated by a projecting bolt on the outside of the handrailing of a chute or slideway erected for the entertainment of children in a public park. The court rejects the distinction between public and private functions as a test of liability.

In *Ramirex v. Cheyenne* (Wyo.), 241 Pac. 710, the city is held liable for injuries to a child caused by a defective swing in a public playground. The same criterion of liability is adopted as that applicable to charitable corporations engaged in similar service.

In *Byrne v. City of Jackson* (Miss.), 105 So. 861, the liability of city for injuries to an adult by the attack of a bear in the municipal zoo, is

<sup>16</sup> 158 U. S. 564.

affirmed. The court asserts that the city's duty to exercise care in the management of its parks is similar to that required in the care of streets.



**Drainage Districts—Liability for Torts.**—The non-liability of drainage or reclamation districts in California in an action for tort is upheld, in *Western Assurance Co. v. Sacramento & San Joaquin Drainage District* (Cal.), 327 Pac. 59, upon the ground that they are purely governmental agencies of the state, and have not been made liable by statute. The immunity of the state from suit without its consent is carried over to these corporations, although the statute under which they are organized provides that they may sue and be sued. Such quasi-municipal corporations, when organized to carry out general governmental purposes are usually held to be immune from liability for tort. The court holds that the primary purpose of their organization is to act as an agency for the state, and not for the special benefit of the owners of the lands included within their boundaries.



**Nuisance—Liability of City for Maintenance.**—The District of Columbia maintains in Fairfax County, Virginia, a workhouse for the confinement of prisoners. The plaintiff alleged that the value of his adjoining property was practically destroyed by continuously loose control exercised by the District over prisoners sent there for confinement; that as a result many prisoners escaped, terrorized the country-side, constantly trespassed upon his property and rendered it difficult for him to carry on his business. The District defended upon the ground that the municipality was immune from action, as it was engaged in a purely governmental activity in maintaining the workhouse. A verdict for \$7500 for the plaintiff was sustained by the District Court of Appeals, in *District of Columbia v. Totten*, 5 Fed. (2d) 374, as the state of facts proved the existence of nuisance maintained by the District for which it is liable in damages to the injured party, irrespective of the question whether the activity was private and proprietary in character or public and governmental.



**Zoning.**—In the case of *Hauser v. State ex rel. Erdman* (Ohio), 150 N. E. 42, the right of the petitioner to a mandamus to compel the commissioner of buildings of Cincinnati to issue him a

permit to erect a business building in a restricted district was affirmed. Application for the permit was made before the zoning ordinance in question was adopted and the petition for mandamus filed before it went into effect. The relator had fully complied with the state and city building codes at the time of his application, and the permit was arbitrarily refused pending the enactment of the zoning ordinance. The supreme court of Ohio in *Putz v. Messer*, 149 Ohio 30, decided in May, 1925, upheld the validity of a comprehensive zoning ordinance, enacted under express statutory authority.

In *State ex rel. Giangrosso v. New Orleans (La.)*, 106 So. 549, the relator applied for a permit to erect a drive-in filling gasoline station in a district restricted against business, trade or manufacturing. The judgment below, granting him a writ of peremptory mandamus was reversed upon the grounds set forth in *State ex rel. Civello v. New Orleans*, based upon the state constitutional amendment, thus sustaining the power to zone upon considerations of "public safety, comfort or general welfare in view of better police protection, economy in street paving, lessening of fire hazard and likelihood of business establishment becoming a genuine nuisance."

In *Wulfsohn v. Burden (N. Y.)*, 241 N. Y. 288, 150 N. E. 120, the court of appeals of New York, affirms an order denying the petitioner a writ of mandamus to compel the inspector of buildings of Mt. Vernon to issue a permit to erect in a restricted district an apartment house, the plans of which did not conform to the setback or rear yard area provisions of the zoning ordinance. That the validity of such regulations independent of a zoning plan involves no new question, was uniformly upheld prior to any zoning legislation<sup>17</sup> and was affirmed in *Welch v. Swasey*, 214 U. S. 91. The importance of this case is due to the fact that the petitioner based his appeal upon

<sup>17</sup> See *Brice's Appeal* (1879), 89 Pa. 85, in which John J. Johnson did not think it worth while even to raise the question of the authority of the city to regulate the open space area of tenement buildings.

the invalidity of the entire zoning ordinance and that on delivering the opinion of the court, Hiscock, C. J. took occasion to review the bases of zoning legislation, and to emphasize the application of the police power to "the welfare of the people by promoting public convenience or general prosperity," as well as "to promote public health, public morals, or public safety, or to the suppression of what is apparently disorderly or unsanitary."

This opinion will rank as one of the ablest pronouncements upon the question of the extent of the police power as applied to zoning, and meets the criticism frequently urged against the opinion in *Lincoln Trust Co. v. Williams Building Corporation*, 229 N. Y. 213, that the court in that case did not adequately express the fundamental grounds upon which zoning legislation may be upheld.

The case of *Village of Euclid v. Ambler Realty Company*, which directly involves the constitutionality of zoning ordinances under the constitution of Ohio and the federal constitution, is pending in the supreme court of the United States upon appeal from the district court (297 Fed. 307), in which the ordinance of the village, placing a large part of some sixty-eight acres of vacant land of the company along the Nickel Plate Railroad's right of way in districts from which all manufacturing buildings are excluded, was declared void. While the question involved may be limited to the reasonableness of the demarcation of the restricted areas in the particular case, the court for the first time has before it the general question of the extent of the zoning power under the inhibitions of the Fourteenth Amendment.

The case was argued January 27, by Newton D. Baker for the Ambler Realty Company and by James Matzenbaum for the village. That the court feels called upon to pass upon the question of how far the police power may be extended to authorize zoning ordinances may be inferred from the fact that on March 1 it restored the case to the calendar and set it down for re-argument on the fourth of next October.

# GOVERNMENTAL RESEARCH CONFERENCE NOTES

EDITED BY ARCH MANDEL

**Kansas City Public Service Institute.**—The municipal research bureau for Kansas City, Kansas, is rapidly rounding into shape for work. It will be operated as a part of the Chamber of Commerce, but with a semi-independent board.

There has been forming in Missouri for the past two months an organization to be known as the Association for Economy in Public Expenditures. This is planned to be a state-wide organization, dealing with state and local governments. Planned at first as an organization to make a survey for the purpose of reducing public expenditures, it is now developing into a permanent research organization not at all committed to reduction of expenditures, but to better government. This organization is not at all complete and finances have not yet been raised. Unless there is some trouble in doing this, it is likely that Missouri will have a state governmental research organization.

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**The Ohio Institute.**—The following is the program of work laid out for the Institute for the year 1926:

*Mental Hygiene:* Co-operation with state department of public welfare in beginning two new institutions for feeble-minded, for which appropriations were made by the last legislature.

Encouragement of the industrial colony method for care and training of feeble-minded.

Promotion of special classes for mentally deficient children in the public schools and of supervision of such children when released from school attendance.

*Correction:* Co-operation with the Joint Legislative Committee on Prisons and Reformatories in establishing an effective system of classification of inmates and institutions, to the advantage of both.

Study of prison industries and prisoner's compensation.

Encouragement of county officials to establish probation departments.

Study of county jails and local workhouses.

*Child Welfare:* Continued co-operation with state department of education in administration of school attendance laws.

Encouragement of public schools to use school visitors.

Study of state aid to special education.

Co-operation with state department of public welfare in stimulating improved administration of probation and mothers' pensions by juvenile courts.

*Public Finance and Taxation:* Completion of study of school finance for the Ohio State Teachers Association and the Joint Legislative Committee on Taxation.

*Governmental Organization:* Continued co-operation with other agencies to promote change in organization of state departments of public welfare and health.

*Social Organization:* Study, so far as feasible, of the organization, financial support, costs, and services of social welfare activities, public and private, in the principal communities of Ohio.

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**San Francisco Bureau of Governmental Research.**—In connection with a request of the platform men of the San Francisco Municipal Railway for a wage increase, the Bureau has made a compilation of comparative hourly rates paid platform men of street railways of various large cities of the United States. A recent report of a committee of the board of supervisors, the city's legislative body, declared the increase impossible under the present five-cent fare, but the request is being reconsidered for the presentation of new evidence by the platform men.

Bureau representatives discussed consolidated city and county government with Wisconsin legislators, who were guests of the San Francisco Chamber of Commerce while making a study of San Francisco's joint government in February.

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**Philadelphia Bureau of Municipal Research.**—Permanent registration of voters and optional use of voting machines went down under the adverse vote of the senate in the closing week of the special session of the Pennsylvania legislature, recently called by Governor Pinchot. The bills had been prepared by the Philadelphia Bureau for the governor's special commission on election reform. Hostile politically to the gover-

nor, whom it charged with making capital to further an ambition to sit in the United States senate, the strong organization majority in the legislature demolished nearly all of the Administration's program for the special session. Only to a limited extent were the registration and voting machine bills considered on merit. To the extent that they were so considered, governmental research methods received some excellent advertising, when the informal session at which the Bureau presented the merits of the two proposals was reported by the Harrisburg morning newspaper under the three-column caption, "Facts Overcome Every Objection Raised to Election Revision Bills."

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**Taxpayers League, New Bedford, Massachusetts.**—This is a new organization, created as a result of consultant work carried on by Gaylord C. Cummin. Hart Cummin, secretary of the Tax and Economy Committee of the El Paso Chamber of Commerce, is to be the director of the New Bedford organization, beginning April first.

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**Toronto Bureau of Municipal Research.**—The Bureau has issued the third of the series of reports dealing with the council-manager plan, "Advantages Claimed for the Council-Manager Form of Municipal Government." These reports have received considerable notice from the press, and requests for copies have come from all over the Dominion, as well as from the United States.

The Bureau has, during the past month, supplied information to citizens, regarding assessment and taxation in Toronto, regarding taxes paid by the Toronto Street Railway 1916-1921 and by the Toronto Transportation Commission at present, regarding income taxation, regarding election of aldermen for overlapping terms and council-manager plan, and has co-operated with several organizations.

The Bureau's annual report is now in course of preparation.

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**Citizens' Research Institute of Canada.**—In response to a request of the Humbercrest Ratepayers' Association, a report was made in connection with that district, regarding present cost to the ratepayers, present expenditure by the township in that district, and estimated cost if incorporated as a village.

The second of the annual series, "Cost of Government in Canada, 'Provincial,'" has been completed and will be issued during the next few days.

At the invitation of the Winnipeg Board of Trade, the Annual Convention of the Canadian Tax Conference of the Institute will, this year, be held in that city on a date not yet decided.

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**Minneapolis Bureau of Municipal Research.**—Upon request of the water committee of the city council, the Bureau is making a study to fix a water rate that will make the department self-sustaining. In determining the rate, the interest and sinking fund items now being paid out of general taxes will be considered, as will the amount of water now being furnished free to the various city departments.

In order to standardize grades and salaries in the county service, the board of county commissioners has asked the Bureau's assistance in this assignment.

At the recent meeting of the Minnesota Tax Conference, emphasis was given the subject of standards for municipalities in the incurring of indebtedness. A committee was appointed to prepare a report to be submitted to the 1927 legislature. The Bureau is helping in the drafting of this legislation.

The Minneapolis charter has had a third re-drafting, which is now under examination by a committee charged with the responsibility of presenting the document in final form to the committees sponsoring it in the city. This work follows the joint sessions of a Business Men's Committee and a Citizens' Representative Charter Committee, who compromised certain points of difference in the document in several meetings held last summer. A committee of five on supervising the re-drafting was then appointed, in which committee the Bureau is represented by its director. It is their task to submit to the two main committees the revised charter. All of this points toward the submission of the proposal for voting at the June 21 primary, which is a state wide affair. Under the interpretation of the law by the attorney general, this will be a special election, so that only the votes for and against the charter will be counted. Were the election held on general election day in November, the charter would have to receive four-sevenths of all the votes cast at the election, regardless of the question on which the vote was cast.

# MUNICIPAL ACTIVITIES ABROAD

EDITED BY W. E. MOSHER

**Public Health.**—The English government enacted last year a new public health act which contains many provisions applying to urban, rural and local authorities. It deals largely with the more recent developments in the fields under the charge of the ministry of health. In the main, the act gives to the various local authorities broad discretionary powers which formerly were possessed by them only by special order. The crystallization of new standards and methods of procedure embodied therein results from a rather long period of experimentation by a considerable number of local authorities, each of which received special permission to try out some policy that seemed suited to it. The act epitomizes, therefore, the outcome of wide and varied experiences.—*The Local Government News* (London).

♦

**Restriction on Foreign Loans by German Municipalities.**—On account of the increasing tendency of German cities to turn to foreign countries, particularly the United States, for the floating of bond issues, a central bureau for foreign credit has been set up under the initiative of former Imperial Chancellor Luther. It is the business of this organization to consider the purpose and the economic soundness of the proposed state or municipal loans. In reaching a decision the rate of interest, the subsidiary costs, the duration of the loan and finally the ability of the given state or city to carry out the conditions of the loan without being unduly burdened, are taken into account.

Considerable attention has evidently been given to the question of economic advisability and a rather sharp line has been drawn between loans for "desirable" and loans for "commercially profitable" undertakings. The erection of public buildings and dwellings, the purchase of land for building purposes or for sport or exposition grounds and the like, have been considered uneconomic and permission to float the bonds has not been granted.

On the other hand when it came to the erection or extension of public works, such as gas, water or electrical works, or of the suburban tramways, the attitude of the clearing house has been favorable.—*Zeitschrift fur Kommunalwirtschaft* (Berlin).

**Municipal Ownership of Land in German Cities.**—Through the co-operation of the Statistical Bureau of Breslau and the Central Bureau of the German Union of Cities (Deutscher Staedtetag) statistics have been gathered to show the extent of land ownership by municipal corporations as well as the extent to which the ground included in the city boundaries has been built up, and the density of population in the cities reviewed. The figures are for 1924. They are gathered from 204 cities of 20,000 and more population, classified in three groups: those of 100,000 and more, those of 50,000 to 100,000, and those of 20,000 to 50,000 population.

For purposes of illustration, the following figures for the city of Cologne may be cited.

Total area in hectares (one hectare approximately  $2\frac{1}{2}$  acres):

Occupied by buildings including courts and garden.....	2,837
Used for streets, squares, railroads..	2,341
Public parks and gardens.....	348
Cemeteries.....	283
Playgrounds and sport fields.....	93
Water areas.....	883
Public holdings (237 hectares devoted to buildings).....	5,719

It appeared that the city owns 24.5 per cent of the total space within the city limits, exclusive of streets. In addition to the above, the city owns 2465 hectares outside of the city limits.

Certain data from the summary of the 45 cities in the 100,000 plus group will be of interest. On the average the built-up area constitutes 16.5 per cent of the total area within the city limits; 25.2 per cent, excluding space for streets, is in the possession of the city. The average population density for total area is 39.1 per hectare; for the built up areas alone the population density is 237.5 per hectare.—*Mitteilungen des Deutschen Staedtetages* (Berlin).

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**Civil Research.**—Under a Minute of the Treasury the British Government has recently established a Committee of Civil Research, as a standing committee with advisory powers, comparable in organization and function to the Committee of Imperial Defense. Its business will be to give connected thought "to the development of

economic, scientific, and statistical research in relation to civil policy and administration, and to define new areas in which inquiry would be valuable." Within these limits the committee will take up such questions as may be referred to it by the cabinet and government departments. It has further power to organize sub-committees and utilize the services of outside experts or of departmental officers.

In explanation of the purpose of the committee, the Earl of Balfour stated that it was to remedy a defect in the organization of the departments of government due to the fact that they worked in more or less water-tight compartments. This situation led, in his judgment, to the neglect of those problems that overlapped two or more departments and also of those problems more or less abnormal in character or of such magnitude that they could not be well handled by the fixed organization of the department in question. Further, he indicated the importance of having some sort of machinery for dealing with imperial problems which involved two or more dominions.

The Committee of Civil Research will have no administrative or executive functions. Its success will be commensurate with its ability to co-operate with the various departments and to bring about a greater degree of co-operation among them. The success of the Committee of Imperial Defense seems to be an indication of the success of the proposed committee.—*The Civilian* (London).

★

**Public Burial.**—The extent of free public burial has increased to such a point in Saxony, Germany, that there are now 610 communities, including 77 cities, which are performing this type of public service. Public burial includes the care and clothing of the body, the provision of the coffin and pallbearers and finally the cost of the hearse and the cemetery expenses. The means for free burials are to be included annually in the regular budget of the community.—*Zeitschrift fur Kommunalwirtschaft* (Berlin).

★

**Moving Pictures for the Schools.**—A general law has been passed in Italy providing for the organization of special bodies to raise the morals of the school children in various communities where there is interest in such a movement. One of the chief activities of these "moral bodies" is to provide projection apparatus and films of an educational and scientific character suitable for

school children. The children are customarily sent to an exhibition of these films once a week.

The expenses are met by special appropriations by the cities concerned. Rome has contributed to date, for instance, 20,000 meters of instructive films.

As the local bodies are united in a kind of association, it is possible for regular interchange of films to take place between towns. As a result, there are now 515 programs available, consisting of 1,022 reels.

It is reported that the personnel of the organizations interested in this project consists largely of school teachers.—*Capitolium* (Rome).

★

**Extension of Public Gas Works.**—Several months ago the burgomasters and provincial councillors of Saxony met for the purpose of discussing the possibility of extending the gas supply to the various towns and cities of the province through a system of long distance piping. Two resolutions were adopted which provide: (1) that the authorities of the province should lay plans for the development of a unified system of supplying gas for the whole province and for the restriction of the use of country roads to the public piping lines, (2) that the townships be informed of this conclusion and urged further to refuse to private enterprise the use of the roads within their borders except after agreement with the central administration of the province.

It is pointed out that the concentration of gas works in certain districts in Saxony has been going on apace. For instance, in the course of six years, 1917-23, the city of Dresden has taken over the task of supplying gas to its own citizens and has so extended the territory to which it is supplying gas beyond the city limits that twenty-two independent communities are using Dresden gas. Similar developments have taken place in Frankfort, Cologne and in the Ruhr. In this latter province, eighty-five cities with a population of five million inhabitants are now successfully supplied under a unified public system.

The plan for Saxony prescribes the division of the province into about fourteen different sections, each section to be supplied by a group of gas works. The financing of the scheme would be handled by corporate bodies with limited liability. These corporations would be further organized under a parent company. Steps are already under way toward the realization of this plan.—*Zeitschrift fur Kommunalwirtschaft* (Berlin).

**Housing the Employees of the City of Rome.**—Some 15 years ago the city of Rome, as an employer, considered the advisability of constructing buildings for the housing of the municipal employees and a few buildings were constructed at that time. It was not, however, until 1919 that a comprehensive plan was prepared and presented to the city council in the form of a report by a special committee outlining the need and making recommendations as to building and financing dwelling places for the public servants of the city. In 1922, a loan of 12,000,000 lire was authorized. This was later increased to 32,000,000. The bulk of this amount was to be loaned at three per cent interest to be repaid at the end of 50 years. Up to the present the city has appropriated each year a sum sufficient to meet the interest on the loans.

This program has resulted in the construction of a number of distinctive multi-family houses aggregating 480 apartments with 2,478 rooms. The municipal electric plant has also set aside 2,000,000 lire for the construction of small apartment houses. In spite of this rather generous provision, there is a movement under way to increase the number of houses so that the 2,000 teachers and 4,000 other municipal employees may be accommodated.

The article does not indicate on what basis the civil servants are to finance their share of the scheme, which is announced as a co-operative venture. Neither does it contain an adequate explanation as to the plan for amortizing the debt.—*Capitolium* (Rome).

♦

**University Department of Public Administration.**—Dr. Walter Norden, a professor at the University of Berlin, has outlined the need for and the character of training desirable for those who plan to enter the public service as a career.

Taking for granted the necessity of economics and law, he points out that a well-rounded course would provide an extension of the customary work along the lines of the science of public administration. It is admitted that at the present time courses are given in public finance and public health and welfare, particularly as these relate to local government, but they have not been so welded together that a well-balanced scheme of studies has resulted. It is the thought of the writer that a systematic whole must be evolved around the "personality" of the municipal corporation. That is to say, the study of financial interests should be approached with reference to the local charity and welfare program and the latter in its relationship to the whole local scheme of government. Finally, local government should be related to general economic conditions. The desirability of considering these matters, not in the light of conditions in a single city alone, but in that of the practices throughout Germany and foreign countries is pointed out.

A second consideration upon which the writer lays emphasis is the need of a period of practical apprenticeship and the question is raised as to whether this should come after or during the theoretical training at the university. On the whole it appears advisable to arrange for a certain amount of practical work during the university years, especially in the vacation period. Finally, it is reported that the committee in charge of examinations and diplomas at Berlin has recommended that public administration be recognized as an elective on a par with law and national economy.

It appears from this article that special courses are already under way in Berlin, where an average attendance of fifty in the beginning work and forty in the advanced work is recorded.—*Preussisches Verwaltungsblatt* (Berlin).

## NOTES AND EVENTS

**Governor Smith's Housing Plan.**—Asserting that there is an abundant supply of apartments in New York city renting at about \$20 a room but that there is still an alarming scarcity of new apartments renting for between nine and twelve dollars per room, which is all that two-thirds of the population earning less than \$2500 a year can afford to pay for living quarters, Governor Smith has called upon the legislature to pass his bill providing for low-priced housing with state aid or to suggest a better plan.

In brief, the governor's scheme provides for limited-dividend housing companies privately owned which will build and operate tenements. The rentals which would be charged by such corporations could not exceed \$12.50 a room in Manhattan, \$11 in Brooklyn and the Bronx, \$10 in other first-class cities and \$9 elsewhere in the state. To assist the limited dividend corporations the governor would establish a state housing bank. When a limited dividend company desires to build an apartment it will present its plan to the state housing board, which will consider it mainly from the point of view of location, use of land and adequacy to meet the needs it is intended to serve, and to the state housing bank which will consider it mainly from the point of view of financial soundness. When the plan is approved, the company puts up one-third of the total cost of the project, and the bank condemns the land and provides the other two-thirds of the cost through the issuance of tax-exempt bonds which will bear interest at not more than five per cent and will represent a first lien on the particular project. The dividends of the company are restricted to cumulative six per cent and the rate of amortization is fixed so as to retire seventy-five per cent of the investment in fifty years. The bonds of the housing bank will be tax-exempt and municipalities are to be permitted to exempt from local taxation all construction completed under this scheme. The stockholders of the company may, at their option, exchange their stock for second lien five and one-half per cent certificates of the bank which will be tax-exempt.

The plan is designed to meet two great obstacles to cheap housing. The first is the high cost of money for apartment house construction, amounting at present to fifty-four cents out of

every dollar in rent of cheap tenements. One per cent reduction in interest rates means \$1.00 a room a month reduction in rent. Through the tax-exempt bonds of the housing bank the money under the proposed plan would be secured at the lowest possible cost. At a hearing on the bill it was announced that the Metropolitan Life Insurance Company stands ready to furnish money to the state housing banks up to two-thirds of the cost of new projects undertaken under the terms of the bill at an interest rate of five per cent. This statement has greatly increased the popular belief that the plan is financially sound.

The second great obstacle to cheap housing, according to Governor Smith, is the expense of acquiring large sites in crowded areas. Every time a promoter undertakes to acquire land for an apartment house he finds that, as he purchases each parcel in the tract, the next parcel is proportionately higher. To overcome this obstacle the land bank is to be given the power of eminent domain under which it will be able to condemn land on behalf of the limited dividend companies when the construction plans have been approved by the housing board and the bank.

Governor Smith stresses the point that housing is really a public utility, that it is a business affected with a public use as much as electricity, traction or transportation, and that the state's participation in it is justified and constitutional. Eminent lawyers agree with him in this, and although certain critics have questioned the constitutionality of the scheme the general opinion is that the governor is right.

The opposition to the proposal is twofold. Political opponents have attacked the plan as socialistic and unconstitutional although they have not sought to produce evidence attacking its financial soundness. Others, perhaps more disinterested in their attitude, oppose the scheme because they fear that the tendency will be to perpetuate tenements in congested parts of New York city and thus counteract the centrifugal movement now under way. While it is true that the governor has stressed the necessity of replacing the unhealthy and evil tenements in congested New York, it should be remembered that economic forces seem to have sounded the knell of tenements in many such districts, and it is doubtful whether any state housing scheme will

affect the forces at work to make any housing impossible in down town Manhattan. Moreover, the tenement evil is not confined to New York city. Many of the suburbs are already confronted with it and the cause, according to those who favor the governor's plan, is found in the high cost of private construction which can be overcome only through state aid.

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**New York and New Jersey to be joined in Rapid Transit.**—The North Jersey Transit Commission has filed a report with the state legislature which presents an elaborate plan for transit relief in the New Jersey counties suburban to New York city. The transit commission foresees a possible growth from the two million population at present within the New York commuting ring to four million five hundred thousand if facilities are developed for through transit service between the states of New Jersey and New York.

It proposes a seventeen-mile rapid transit loop running under the Hudson to the Battery in New York city, thence uptown by a new subway route and back across the Hudson to New Jersey through a tunnel at Fifty-seventh street. The present rapid transit lines throughout the nine northern counties in New Jersey are to be extended to tie in with this new system. The plan further proposes a link at the Battery with the Interborough trains which would continue under the river to Jersey and would be operated full both ways. The dead end of the West Side subway at Eighth avenue and Forty-first street, and the B. M. T. line ending at Sixth avenue and Fourteenth street could also be linked in with the interstate loop, thereby furnishing a unified circulating subway system for New York city and metropolitan Jersey.

The total cost of the project is estimated at \$382,000,000. It is believed that the system could be operated at a fare as low as twelve cents. With the increased travel called forth by the new facilities the commission foresees the necessity of a super-terminal in the Jersey meadows with lines sufficient to accommodate eighteen steam trains and nine electric trains. From this terminal rapid transit service would serve the surrounding territory.

Plans for financing the scheme, the preparation of which involves a study of the applicability of special assessments, will be presented in a later report. The report states that all central terminal services for commuters should be abandoned as soon as possible and through service

substituted for them so that the New Jersey population may be distributed without change throughout Manhattan as effectively as New York city's rapid transit facilities now distribute its population.

♦

**Rapid Bus Developments in New York City.**—Only five years ago there was general sneering at the "jitneys"; today the granting of bus franchise is the dominant interest in many localities. This is true especially in New York city, which for the past two years has been interested in a bus program and has been considering the alternative modes of organization and the relative advantages and disadvantages of each particular course.

During recent months the problem has taken a somewhat definitive course. A decision of the court of appeals has definitely settled that the city of New York has not the right to own and operate buses; that this power was not included in the recent home rule amendment of the constitution and the home rule provisions of the law. In the face of this decision the policy has been practically adopted to grant franchises to private operators for limited terms, with provisions of recapture if prior to the termination the city should acquire the right of municipal ownership and operation, and if such recapture should seem desirable.

With this new development, the city has been overwhelmed with applications for bus franchises by independent operators, including small companies, existing street railway companies, and concerns bidding for a single franchise covering city-wide operation. These applications involve tremendous problems of policy on the part of the city, which will probably be determined during the next few months as franchises are actually granted.

Among the numerous questions to be considered are (1) To what extent the bus franchises shall be granted to existing street railway companies, and (2) whether a single franchise should be granted for the entire city, instead of a number of franchises to individual smaller units.

As to the first question, there is an operating advantage in integrating the street railway service with supplementary bus lines. It avoids duplication of service, unnecessary competition, and, perhaps, premature abandonment of street railway lines. But there is an extremely important financial problem. To prevent financial complication between the bus and street railway

units, a separate financial structure should be provided, so that the bus operation may not be burdened by any fixed charges or other costs due to street railways. This will make available all operating advantages of the buses, but will avoid a double burden of fixed charges in the future, as street railways become plainly obsolete and are abandoned.

The second problem of policy is whether a single franchise for the entire city shall be granted to one company, or whether a number of grants shall be made to smaller units. From an economic and financial standpoint, all the advantages seem to be in favor of a single unified bus system for the entire city. This would make possible a much more economical system both as to required investment and cost of operation. The service could be much better co-ordinated according to the needs of the different parts of the city, and according to constantly changing conditions and requirements of service. There would be more economical operation, a tremendous saving in overheads, and much better service.

A unified system also has the advantage that the relations between the city and the company could be more readily administrated. The necessary machinery of control would be provided for only one company. Inspection would be greatly simplified, and the problems of adjustment would be much easier. Moreover, in the case of recapture for future city operation, a practical plan could be worked out much more readily with a single unit than with a number of smaller competing companies. The history of street railways certainly points to the advantage of a unified bus system to start with. This will not only mean economical and better service, but will simplify all regulatory and financial arrangements in the future, and will leave more freely in the hands of the city all future transportation policies.

JOHN BAUER

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**Detroit Special Assessment Sinking Fund Analyzed.**—According to an analysis of the Detroit special assessment sinking fund, recently published by the Detroit Bureau of Governmental Research, there are outstanding more than \$16,000,000 of special assessment bonds. At the end of 1924 the sinking fund to secure these bonds was over \$900,000 short. To that date the earnings of the fund (including interest on outstanding assessments) ran behind \$26,000

per year. Since that date, however, earnings have been increased, due to increase in interest rates on outstanding balances on special assessments from four to six per cent. The report points out that, if the cash in the special assessment fund were segregated from the general fund, a higher rate of interest on deposits could be earned at the bank and additional income would be gained thereby.

Prompt advertising of special assessments and more prompt payment of them made possible thereby would save the city an additional \$46,000. An amendment to the charter to provide that property owners pay interest on the entire outstanding balance of unpaid assessments instead of only upon that part which is due them (a practice said to be unique in financial circles) would save \$17,000 more per year.

In all, a saving of \$76,000 per year in the administration of the special assessments sinking fund would be effected through the adoption of the Bureau's recommendation.

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**Personnel Research Encouraged.**—The personnel round table of the National Conference on Politics is co-operating with the Bureau of Public Personnel Administration to stimulate research in public employment management in the universities and colleges. A number of topics suitable for research study have been listed and detailed statements regarding them have been sent to university departments of political science and public personnel administrators generally. A complete statement describing the topics and the facilities and methods for research was published in the February issue of *Public Personnel Studies*.

The topics suggested are as follows: The Rates of Compensation for Selected Classes of Positions in the Public Service and in Industry; The Operation and Effect of Laws Giving Preference to Veterans; The Handling of Promotions in the Public Service; The Number, Compensation, Selection, Qualifications, Duties, Attendance, and Turnover of So-Called "Confidential" Clerks and Secretaries; Employment Conditions and Practices in Public Jurisdictions Where There Is No Personnel Agency; A Comparison of Employment Conditions and Practices in a Geographical Unit Having a Public Personnel Agency Where Large Number of Positions Are in the Unclassified Service; The Selection, Qualifications, Tenure, and Compensation of Provisional Employees Appointed to Positions in the Classi-

fied Service; The Consolidation and Sub-Division of Classes of Positions; The Factors Upon which Compensation Rates in the Public Service Are and Should Be Based; and Standardized Tests for Individual Classes of Positions.

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**Advertises for City Manager.**—The following advertisement appeared in a recent issue of *Pacific Municipalities*:

ADVERTISEMENT FOR CITY MANAGER  
SANTA BARBARA

Notice is hereby given that the undersigned will receive applications for the position of City Manager for the City of Santa Barbara, addressed to the City Council, up to 5 o'clock p. m. of the 3rd day of March, 1926.

S. B. TAGGART, *City Clerk.*

Advertisements for municipal engineers, city clerks, etc., have been common enough in England for many years. For instance, the present town clerk of Bloemfontein, South Africa, was attracted to the post by an advertisement in the *London Times*. The practice is an evidence of the non-political character of the positions. It is to be hoped that it will soon become common in the United States.

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**The Regional Planning Federation of the Philadelphia Tri-State District** is now an accomplished fact. Colonel Samuel P. Wetherill, Jr., is president and Mrs. Edward W. Biddle is vice-president representing Philadelphia. The other vice-presidents are: J. David Stern of Camden; J. Borton Weeks, Chester; and George S. Webster of Philadelphia. Howard Strong is secretary-director. Russell Van Nest Black is resident engineer of the Federation.

H. O. Wyatt is preparing a map of the recreation ground in the Philadelphia district. When it is completed the area and location, and in a degree the equipment and administration, of every park, playground, golf course, beach or other recreation area within fifteen or twenty miles of the Philadelphia City Hall will be shown in graphic form.

**Mayor Nichols of Boston** has announced the organization of a board on municipal emergencies to deal with emergencies which may arise in the city. The scope of the work embraces almost every form of disaster that could strike the city.

The board is organized for action in emergency and for educating the people how to meet it. Dr. Hollis Godfrey, for many years president of Drexel Institute and at present president of the Engineering-Economics Foundation, is in charge of the educational side of the problem. This foundation, which is concerned with the study of man as endangered by emergency, whether fire, famine, flood, earthquake, panic, pestilence, riot or storm, has made its facilities available for the Boston educational campaign.

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**City Manager Flack** of Springfield, Ohio, has been making profitable use of a coring machine built by the city to test the honesty of paving contractors. Suspecting that certain asphalt and asphaltic concrete pavements laid about five years ago were not living up to specifications he began taking samples of them. Ten streets were cored and none showed according to specifications. The manager thereupon requested the state auditor to conduct an investigation and as a result alleged fraud amounting to about \$70,000 has been disclosed in connection with the paving of ten streets. The city is now preparing to sue the contractors to obtain restitution. The coring showed that in none of the streets was the top of the thickness called for in the specifications.

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**Mrs. John B. Henderson**, who has offered to congress a site for a national art gallery, appeared recently before the senate committee of the District of Columbia to urge that the present commission form of government for the District be replaced by a single administrative head. In the course of her remarks, Mrs. Henderson pointed out certain planning needs for the nation's capital and referred most complimentarily to the activities of the National Municipal League.